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CHAPTER 1—THE BUREAU OF MINES

Sec.

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Alaska Communications system, mineral rights exception from transfer of government-owned long-lines communication facilities, see section 781 of Title 40, Public Buildings, Property, and Works.

Appalachian Regional Development Act of 1965, mining area restoration and prevention of water pollution by drainage from mines, see sections 205 and 206, set out in Appendix to Title 40.

Atomic Energy Act of 1954—

Generally, see section 2011 et seq. of Title 42, The Public Health and Welfare.

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Bureau of Labor Statistics—

Collection, collation, report, and publication of employment statistics in mining, quarrying, and crude petroleum production industries, see section 2 of Title 29, Labor.

Studies of productivity and labor costs in mining industry, see section 2b of Title 29.

Bureau of Land Management specifications for descriptions of tracts of land for use in executive orders and proclamations, see Ex. Ord. No. 11030, set out as a note under section 1505 of Title 44, Public Printing and Documents.

Censuses of mineral industries; collection and publication, five-year periods, see section 131 of Title 13, Census.

Coal cars, distribution by railroad carriers; penalties for failure to prorate, see section 1 of Title 49, Transportation.

College-aid land grants, mineral lands exclusion, see section 301 of Title 7, Agriculture.

Connally Hot Oil Act, see section 715 et seq. of Title 15, Commerce and Trade.

Geological Survey, printing of mineral resources' reports, see section 1318 of Title 44, Public Printing and Documents.

Helium gas, see section 167 et seq. of Title 50, War and National Defense.

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- Subsurface storage of oil or gas, see section 396g of Title 25.

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Military service, utilization of mines, see section 468 of Appendix to Title 50, War and National Defense.

National forests, monuments, and parks: mineral lands, deposits, and mining, see generally Title 16, Conservation.

National Museum collections of rocks, minerals, soils, fossils, and other objects of natural history, archaeology, and ethnology, see section 59 of Title 20, Education.

Natural Gas Act, see section 717 et seq. of Title 15, Commerce and Trade.

Natural Gas Pipeline Safety Act of 1968, see section 1671 et seq. of Title 49, Transportation.

Offenses—
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- Coal depredations, public lands, see section 1851 of Title 18.
- Espionage, see section 793 of Title 18.
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Petroleum and petroleum products—
- Adjustment of imports into the United States, see Proc. No. 3279, set out as a note under section 1862 of Title 19, Customs Duties.
- Interstate transportation, see section 715 et seq. of Title 15, Commerce and Trade.
- Naval petroleum reserves, see section 7421 et seq. of Title 10, Armed Forces.

Public utility holding companies, see section 79 et seq. of Title 15, Commerce and Trade.

Small Tract Act, see sections 682a to 682e of Title 43, Public Lands.

Soil area surveys by Secretary of Agriculture, printing of reports, see section 1342 of Title 44, Public Printing and Documents.

Soldiers' and Sailors' Civil Relief Act of 1940—
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Strategic and Critical Materials Stock Piling Act, see section 98 et seq. of Title 50, War and National Defense.

Submerged lands mineral rights generally, see section 1301 et seq. of Title 43, Public Lands.

Taxation, natural resources—
- Deductions, gross income, see section 611 et seq. of Title 26, Internal Revenue Code.
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- Helium gas, production of, see section 161 et seq. of Title 50, War and National Defense.

§ 1. Bureau of Mines; establishment; director; experts and other employees

There is hereby established in the Department of the Interior a bureau of mining, metallurgy, and mineral technology, to be designated the Bureau of Mines, and there shall be a director of said bureau, who shall be thoroughly equipped for the duties of said office by technical education and experience and who shall be appointed by the President, by and with the advice and consent of the Senate; and there shall also be in the said bureau such experts and other employees, to be appointed by the Secretary of the Interior, as may be required to carry out the purposes of sections 1, 3, and 5 to 7 of this title in accordance with the appropriations made from time to time by Congress for such purposes.

(May 16, 1910, ch. 240, § 1, 36 Stat. 369; Feb. 25, 1913, ch. 72, § 1, 37 Stat. 681; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934.)

Transfer of Functions

For transfer of functions of other officers, employees, and agencies of the Department of the Interior, with certain exceptions, to the Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Bureau of Mines was originally created in the Department of the Interior. The Bureau was transferred to Department of Commerce by Ex. Ord. No. 4239, but was transferred back to Department of the Interior by Ex. Ord. No. 6611.

Cross References

Publications of Bureau of Mines, see section 1327 of Title 44, Public Printing and Documents.

Section Referred to in Other Sections

This section is referred to in sections 3, 5, 6, 7, 8 of this title.

§ 1a. Transfer of activities, employees, records, etc., from Bureau of Foreign and Domestic Commerce to the Bureau of Mines

There is hereby transferred from the Department of Commerce, Bureau of Foreign and Domestic Commerce, to the Department of the Interior, Bureau of Mines, all those activities of the Minerals Division of the Bureau of Foreign and Domestic Commerce concerned with economic and statistical analyses of mineral commodities, domestic and foreign, together with all employees, records, files, equipment, publications, and funds pertaining thereto, effective immediately.

(May 9, 1935, ch. 101, § 1, 49 Stat. 205.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 2. Performance of duties in absence of Director

On and after July 1, 1916, in the absence of the Director of the Bureau of Mines the assistant director of said bureau shall perform the duties of the director during the latter's absence, and in the absence of the Director and of the Assistant Director of the Bureau of Mines the Secretary of the Interior may designate some officer of said bureau to perform the duties of the director during his absence.

(July 1, 1916, ch. 209, § 1, 39 Stat. 303; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 3. Duties of Bureau of Mines

It shall be the province and duty of the Bureau of Mines, subject to the approval of the Secretary of the Interior, to conduct inquiries and scientific and technologic investigations concerning mining, and the preparation, treatment, and utilization of mineral substances with a view to improving health conditions, and increasing safety, efficiency, economic development, and conserving resources through the prevention of waste in the mining, quarrying, metallurgical, and other mineral industries; to inquire into the economic conditions affecting these industries; to investigate explosives and peat; and on behalf of the Government to investigate the mineral fuels and unfinished mineral products belonging to, or for the use of, the United States, with a view to their most efficient mining, preparation, treatment, and use; and to disseminate information concerning these subjects in such manner as will best carry out the purposes of the provisions of sections 1, 3, and 5 to 7 of this title.

(May 16, 1910, ch. 240, § 2, 36 Stat. 370; Feb. 25, 1913, ch. 72, 37 Stat. 681; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 5, 6, 7, 8 of this title.

§ 4. Investigation of lignite coal and peat

The Secretary of the Interior is authorized and directed to make experiments and investigations, through the Bureau of Mines, of lignite coals and peat, to determine the commercial and economic practicability of their utilization in producing fuel oil, gasoline substitutes, ammonia, tar, solid fuels, gas for power, and other purposes. The Secretary of the Interior is authorized and directed subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], to sell or otherwise dispose of any property, plant, or machinery purchased or acquired under the provisions of this section, as soon as the experiments and investigations authorized have been concluded, and report the results of such experiments and investigations to Congress.

(Feb. 25, 1919, ch. 23, §§ 1, 2, 40 Stat. 1154; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934; Oct. 31, 1951, ch. 654, § 2(18), 65 Stat. 707.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables volume.

CODIFICATION

First sentence of this section is from first clause of section 1 of act Feb. 25, 1919. Second sentence is from section 2 of said act.

AMENDMENTS

1951—Act Oct. 31, 1951, inserted the reference to applicable regulations of the Federal Property and Administrative Services Act of 1949, as amended.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 4a. Omitted

CODIFICATION

Section, act June 25, 1926, ch. 674, § 1, 44 Stat. 768, authorized appropriation of $100,000 for fiscal year ending June 30, 1927, and the four succeeding fiscal years for investigation of potash deposits.

§ 4b. Cooperation with individuals, municipalities, etc., contracts with owners; agreements as to prices

The Secretary of the Interior and the Secretary of Commerce jointly are hereby authorized, within their discretion, to cooperate under formal agreement with individuals, associations, corporations, States, and municipalities, educational institutions, or other bodies, for the purposes of this section: *Provided*, That before undertaking drilling operations upon any tract or tracts of land, the mineral deposits of which are not the property of the United States, the Secretary of the Interior and the Secretary of Commerce jointly shall enter into a contract or contracts with the owners or lessees, or both, of the mineral rights therein, and the aforesaid contract or contracts shall provide, among other things, that, if deposits of potash minerals or oil shall be discovered in pursuance of operations under said contract or contracts and if and when said mineral deposits shall be mined and sold, the owners or lessees, or both, of said mineral rights shall pay to the Government and its cooperators a royalty of not less than 2½ per centum of the sale value of any potash minerals and oil therefrom, said payments to continue until such time as the total amount derived from said royalty is equal to not more than the cost of the exploration, as

may be determined by the Secretary of the Interior and the Secretary of Commerce jointly: *Provided further*, That all Federal claims for reimbursement under this section shall automatically expire twenty years from the date of approval of the contracts entered into, in accordance with the provisions thereof, unless sooner terminated by agreement between the owners or lessees of the potash mineral rights and oil and the Secretary of the Interior and the Secretary of Commerce jointly: *Provided further*, That said contract or contracts shall not restrict the Secretary of the Interior and the Secretary of Commerce jointly in the choice of drilling locations within the property or in the conduct of the exploratory operations, so long as such selection or conduct do not interfere unreasonably with the surface of the land or with the improvements thereof, and said contract or contracts shall provide that the United States shall not be liable for damages on account of such reasonable use of the surface as may be necessary in the proper conduct of the work.

(June 25, 1926, ch. 674, § 2, 44 Stat. 768; Mar. 3, 1927, ch. 356, 44 Stat. 1388.)

AMENDMENTS

1927—Act Mar. 3, 1927, amended provisions generally.

§ 4c. Investigation of sub-bituminous and lignite coal

The Bureau of Mines, under the general direction of the Secretary of the Interior, is authorized to conduct investigations, studies, and experiments on its own initiative and in cooperation with individuals, State institutions, laboratories, and other organizations, with a view to (1) the development of a commercially practicable carbonization method of processing sub-bituminous and lignite coal so as to convert such coal into an all-purpose fuel, to provide fertilizers, and obtain such other byproducts thereof as may be commercially valuable; (2) the development of efficient methods, equipment, and devices for burning lignite or char therefrom; and (3) determining and developing methods for more efficient utilization of such sub-bituminous and lignite coal for purposes of generating electric power.

(May 15, 1936, ch. 397, § 1, 49 Stat. 1275.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4d of this title.

§ 4d. Plants, machinery, and equipment

The Bureau of Mines is further authorized, under the general direction of the Secretary of the Interior, to erect such plants, construct and purchase such machinery and equipment, and to take such other steps as it may deem necessary and proper to effectuate the purposes of section 4c of this title.

(May 15, 1936, ch. 397, § 2, 49 Stat. 1275.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 4e. Omitted

CODIFICATION

Section, act May 15, 1936, ch. 397, § 3, 49 Stat. 1275, appropriated $100,000 for carrying out provisions of sections 4c and 4d of this title to be expended during certain fiscal years, the last ending June 30, 1939.

§§ 4f to 4o. Transferred

CODIFICATION

Sections 4f to 4o were renumbered 451 to 460, respectively, of this title.

§ 5. Reports of investigations

The Director of the Bureau of Mines shall prepare and publish, subject to the direction of the Secretary of the Interior, under the appropriations made from time to time by Congress, reports of inquiries and investigations, with appropriate recommendations of the bureau, concerning the nature, causes, and prevention of accidents, and the improvement of conditions, methods, and equipment, with special reference to health, safety, and prevention of waste in the mining, quarrying, metallurgical, and other mineral industries; the use of explosives and electricity, safety methods and appliances, and rescue and first-aid work in said industries; the causes and prevention of mine fires; and other subjects included under the provisions of sections 1, 3, and 5 to 7 of this title.

(May 16, 1910, ch. 240, § 3, 36 Stat. 370; Feb. 25, 1913, ch. 72, 37 Stat. 681; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 6, 7, 8 of this title.

§ 6. Personal interest of director and members of bureau in mines

In conducting inquiries and investigations authorized under sections 1, 3, and 5 to 7 of this title neither the director nor any member of the Bureau of Mines shall have any personal or private interest in any mine or the products of any mine under investigation, or shall accept employment from any private party for services in the examination of any mine or private mineral property, or issue any report as to the valuation or the management of any mine or other private mineral property. Nothing herein shall be construed as preventing the temporary employment by the Bureau of Mines, at a compensation not to exceed $10 per day, in a consulting capacity or in the investigation of special subjects, of any engineer or other expert whose principal professional practice is outside of such employment by said bureau.

(May 16, 1910, ch. 240, § 4, 36 Stat. 370; Feb. 25, 1913, ch. 72, 37 Stat. 682.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 5, 7, 8 of this title.

§ 7. Fees for tests or investigations

For tests or investigations authorized by the Secretary of the Interior under the provisions of sections 1, 3, and 5 to 7 of this title, except those performed for the Government of the United States or State governments within the United States, a fee sufficient in each case to compensate the Bureau of Mines for the entire cost of the services rendered shall be charged, according to a schedule prepared by the Director of the Bureau of Mines and approved by the Secretary of the Interior, who shall prescribe rules and regulations under which such tests and investigations may be made. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts.

(May 16, 1910, ch. 240, § 5, 36 Stat. 370; Feb. 25, 1913, ch. 72, 37 Stat. 682; June 30, 1932, ch. 314, § 311, 47 Stat. 410; Ex. Ord. No. 4239, June 4, 1935; Ex. Ord. No. 6611, Feb. 22, 1934.)

AMENDMENTS

1932—Act June 30, 1932, substituted words "Secretary of Commerce" for "Secretary of the Interior" and changed a reasonable fee to be charged to a fee sufficient to compensate for entire cost of services rendered.

EFFECTIVE DATE OF 1932 AMENDMENT

Section 314 of act June 30, 1932, provided that the amendment of this section became effective July 1, 1932.

REPEALS

Section 802 of act June 30, 1932 provided: "All Acts and parts of Acts inconsistent or in conflict with those provisions of this Act [this section] which are of temporary duration are hereby suspended during the period in which such provisions of this Act [this section] are in effect. All Acts or parts of Acts inconsistent or in conflict with those provisions of this Act [this section] which are of permanent nature are hereby repealed to the extent of such inconsistency or conflict."

SEPARABILITY OF PROVISIONS

Section 801 of act June 30, 1932, provided: "If any provision of this Act [this section], or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1, 3, 5, 6, 8 of this title.

§ 8. Additional mining experiment stations and mine safety stations authorized

The Secretary of the Interior is hereby authorized and directed to establish and maintain in the several important mining regions of the United States and the Territory of Alaska, as Congress may appropriate for the necessary employees and other expenses, under the Bureau of Mines and in accordance with the provisions of sections 1, 3, and 5 to 7 of this title, ten mining experiment stations and seven mine safety stations, movable or stationary, in addition to those established prior to March 3, 1915, the province and duty of which shall be to make investigations and disseminate information with a view to improving conditions in the mining, quarrying, metallurgical, and other mineral industries, safeguarding life among employees, preventing unnecessary waste of resources, and otherwise contributing to the advancement of these industries. Not more than three mining experiment stations and mine safety stations authorized in this section shall be established in any one fiscal year under the appropriations made therefor.

(May 3, 1915, ch. 95, § 1, 38 Stat. 959; Ex. Ord. No. 4239, June 4, 1925; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title.

§ 9. Acceptance of lands from States

The Secretary of the Interior is authorized to accept lands, buildings, or other contributions from the several States offering to cooperate in carrying out the purposes of section 8 of this title.

(Mar. 3, 1915, ch. 95, § 2, 38 Stat. 959; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 10. Headquarters of mine rescue cars; site for experimental work; leases and donations

The Secretary of the Interior is authorized to accept any suitable land or lands, buildings, or improvements that may be donated for the headquarters of mine rescue cars and construction of necessary railway sidings and housing for the same, or as the site of an experimental mine and plant for studying explosives, and to enter into leases for periods not exceeding ten years, subject to annual appropriations by Congress.

(June 5, 1920, ch. 235, § 1, 41 Stat. 912; Ex. Ord. No. 6611, Feb. 22, 1934.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 11. Omitted

CODIFICATION

Section, act May 9, 1938, ch. 187, § 1, 52 Stat. 329, providing that purchase of supplies and equipment or procurement of services for Bureau of Mines might be made in open market without compliance with section 5 of Title 41, Public Contracts, where amount involved did not exceed $100, was a provision of Interior Department appropriation act and was discontinued in acts subsequent to 1938 appropriation act.

§ 12. Repealed. Oct. 25, 1951, ch. 562, § 1(16), 65 Stat. 638

Section, act Aug. 13, 1946, ch. 961, 60 Stat. 1057, related to preservation of technical and economic records of domestic sources of ores of metals and minerals, and is covered by sections 2103, 2908, and 3102 of Title 44, Public Printing and Documents.

Proc. No. 2714, Dec. 31, 1946, 12 F.R. 1; act June 30, 1949, ch. 288, title I, § 104(a), 63 Stat. 381, and 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, which also had been cited as part of the source of this section, but which were not specific amendments hereof, merely affected several of the provisions, and were not themselves affected by the repeal.

§ 13. Research laboratory for utilization of anthracite coal; establishment and maintenance

The Secretary of the Interior, acting through the United States Bureau of Mines, is authorized and directed to establish, equip, and maintain a research laboratory in the anthracite region of Pennsylvania to conduct researches and investigations on the mining, preparation, and utilization of anthracite coal and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for anthracite coal and its products. Such laboratory shall be planned as a center for information and assistance in matters pertaining to conserving resources for national defense; to the more efficient mining, preparation, and utilization of anthracite coal; and pertaining to safety, health, and sanitation in mining operations and other matters relating to problems of the anthracite industry.

(Dec. 18, 1942, ch. 764, § 1, 56 Stat. 1056.)

AUTHORIZATION OF APPROPRIATIONS

Section 5 of act Dec. 18, 1942, provided that: "In order to carry out the purposes of this Act [sections 13 to 16 of this title] there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of (a) $450,000 for the erection and equipment of a building or buildings, including plumbing, lighting, heating, general service, and experimental equipment and apparatus, the necessary roads, walks, and ground improvement, and land for the site of the building if no land is donated; and (b) $175,000 annually for the maintenance and operation of the experimental station, including personal services, supplies, equipment, and expenses of travel and subsistence."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

§ 14. Acquisition of land; cooperation with other agencies

For the purpose of sections 13 to 16 of this title the Secretary, acting through the United States Bureau of Mines, is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, and to utilize voluntary or uncompensated services at such laboratory. The Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, and State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(Dec. 18, 1942, ch. 764, § 2, 56 Stat. 1057.)

REFERENCES IN TEXT

Section 15 of this title, included within the references in text to sections 13 to 16, of this title, was repealed by Pub. L. 86-533, § 1(17), June 29, 1960, 74 Stat. 248.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 15. Repealed. Pub. L. 86-533, § 1(17), June 29, 1960, 74 Stat. 248

Section, act Dec. 18, 1942, ch. 764, § 3, 56 Stat. 1057, related to reports to the Congress of expenditures and donations to the laboratory established under sections 13 to 16 of this title.

§ 16. Research laboratory for utilization of anthracite coal; establishment of advisory committee; composition; functions; appointment

The Secretary of the Interior, acting through the United States Bureau of Mines, may, in his discretion, create and establish an advisory committee composed of not more than six members to exercise consultative functions, when required by the Secretary, in connection with the administration of sections 13 to 16 of this title. The said committee shall be composed of representatives of anthracite coal mine owners, of representatives of anthracite coal mine workers and the public in equal number. The members of said committee shall be appointed by the Secretary of the Interior without regard to the civil-service laws.

(Dec. 18, 1942, ch. 764, § 4, 56 Stat. 1057.)

REFERENCES IN TEXT

Section 15 of this title, included within the references in text to sections 13 to 16 of this title, was repealed by Pub. L. 86-533, § 1(17), June 29, 1960, 74 Stat. 248.

The civil-service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See particularly, section 3301 et seq. of that title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the ex-

piration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 14 of this title.

CHAPTER 2—MINERAL LANDS AND REGULATIONS IN GENERAL

Sec.
21. Mineral lands reserved.
21a. National mining and minerals policy; definition of minerals; execution of policy under other authorized programs; report to Congress.
22. Lands open to purchase by citizens.
23. Length of claims on veins or lodes.
24. Proof of citizenship.
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38. Evidence of possession and work to establish right to patent.
39. Surveyors of mining claims.
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50. Grants to States or corporations not to include mineral lands.
51. Water users' vested and accrued rights; enumeration of uses; protection of interest; rights-of-way for canals and ditches; liability for injury or damage to settlers' possession.
52. Patents or homesteads subject to vested and accrued water rights.
53. Possessory actions for recovery of mining titles or for damages to such title.
54. Liability for damages to stock raising and homestead entries by mining activities.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 1907.

§ 21. Mineral lands reserved

In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

(R.S. § 2318.)

CODIFICATION

R.S. § 2318 was from act July 4, 1866, ch. 166, § 5, 14 Stat. 86.

CROSS REFERENCES

Alabama public lands, reclassification, see section 172 of this title.

Alaska, extension of general land laws, see section 280a of Title 25, Indians.

Atomic Energy Act of 1954, source material, see sections 2091 et seq., 2097, 2098 of Title 42, The Public Health and Welfare.

Control of mining operations in areas of the National Park System to minimize damage to the environment and other resources, see section 1901 et seq. of Title 16, Conservation.

Forest reservation lands, found to be mineral in character, restored to public domain, see section 482 of Title 16, Conservation.

Kansas and Missouri mineral deposits, see section 49 of this title.

Michigan, Minnesota, and Wisconsin mineral lands, see section 48 of this title.

Sale of reserved mineral interests in certain agricultural lands, see sections 1033 to 1035 and 1037 to 1039 of Title 7, Agriculture.

Timber on public mineral lands, felling and removal for mining and other purposes, see sections 604 to 606 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48 of this title; title 43 section 1712.

§ 21a. National mining and minerals policy; definition of minerals; execution of policy under other authorized programs; report to Congress

The Congress declares that it is the continuing policy of the Federal Government in the national interest to foster and encourage private enterprise in (1) the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries, (2) the orderly and economic development of domestic mineral resources, reserves, and reclamation of metals and minerals to help assure satisfaction of industrial, security and environmental needs, (3) mining, mineral, and metallurgical research, including the use and recycling of scrap to promote the wise and efficient use of our natural and reclaimable mineral resources, and (4) the study and development of methods for the disposal, control, and reclamation of mineral waste products, and the reclamation of mined land, so as to lessen any adverse impact of mineral extraction and processing upon the physical environment that may result from mining or mineral activities.

For the purpose of this section "minerals" shall include all minerals and mineral fuels including oil, gas, coal, oil shale and uranium.

It shall be the responsibility of the Secretary of the Interior to carry out this policy when exercising his authority under such programs as may be authorized by law other than this section. For this purpose the Secretary of the Interior shall include in his annual report to the Congress a report on the state of the domestic mining, minerals, and mineral reclamation industries, including a statement of the trend in utilization and depletion of these resources, together with such recommendations for legislative programs as may be necessary to implement the policy of this section.

(Pub. L. 91–631, § 2, Dec. 31, 1970, 84 Stat. 1876.)

SHORT TITLE

Section 1 of Pub. L. 91–631 provided: "That this Act [this section] may be cited as the 'Mining and Minerals Policy Act of 1970'."

CROSS REFERENCES

Control of mining operations in areas of the National Park System to minimize damage to the environment and other resources, see section 1901 et seq. of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1701.

§ 22. Lands open to purchase by citizens

Except as otherwise provided, all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, shall be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

(R.S. § 2319; Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437.)

CODIFICATION

R.S. § 2319 was from act May 10, 1872, ch. 152, § 1, 17 Stat. 91.

PROMOTION OF MINING

Act Feb. 25, 1920, provided for the disposition of deposits of coal, phosphate sodium, oil, oil shale, or gas, and land containing such deposits, and also provided that lands withdrawn from settlement, location, sale, etc., under act June 25, 1910, ch. 421, 36 Stat. 847, be opened to exploration, discovery, occupation, and purchase, under mining laws, as to minerals.

CROSS REFERENCES

Acquisition of mining lands within National Park System by Secretary of the Interior, see section 1911 of Title 16, Conservation.

Deposits of coal, phosphate sodium, oil, oil shale or gas and lands containing such deposits, see section 181 et seq. of this title.

Kansas and Missouri mineral deposits, see section 49 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Preservation and management of National Park System mining areas, see section 1902 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 23. Length of claims on veins or lodes

Mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, located prior to May 10, 1872, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the 10th day of May 1872, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the 10th day of May

1872 render such limitation necessary. The end lines of each claim shall be parallel to each other.

(R.S. § 2320.)

CODIFICATION

R.S. § 2320 was from act May 10, 1872, ch. 152, § 2, 17 Stat. 91.

PROMOTION OF MINING

See Promotion of Mining note under section 22 of this title.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 24. Proof of citizenship

Proof of citizenship, under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

(R.S. § 2321.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2321 was from act May 10, 1872, ch. 152, § 7, 17 Stat. 94.

CROSS REFERENCES

Affidavit of citizenship, see section 25 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 25. Affidavit of citizenship

Applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory.

(Apr. 26, 1882, ch. 106, § 2, 22 Stat. 49.)

§ 26. Locators' rights of possession and enjoyment

The locators of all mining locations made on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. Nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

(R.S. § 2322.)

CODIFICATION

R.S. § 2322 was from act May 10, 1872, ch. 152, § 3, 17 Stat. 91.

PROMOTION OF MINING

See Promotion of Mining note under section 22 of this title.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

National forests, locators' rights, see sections 482a, 482b, 482e, 482h, 482h-1, 482j, 482n and 482o of Title 16, Conservation.

Preservation and management of National Park System mining areas, see section 1902 of Title 16.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 27. Mining tunnels; right to possession of veins on line with; abandonment of right

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment

of the right to all undiscovered veins on the line of such tunnel.

(R.S. § 2323.)

CODIFICATION

R.S. § 2323 was from act May 10, 1872, ch. 152, § 4, 17 Stat. 92.

SHORT TITLE

This section is popularly known as the Tunnel Site Act.

TEMPORARY SUSPENSION OF WORK REQUIREMENTS

Act June 22, 1944, ch. 271, 58 Stat. 324, provided that from June 22, 1944 to 6 months after cessation of hostilities in World War II, no location on the line of a tunnel run for the development of a vein or lode or for the discovery of mines, or veins or lodes not appearing on the surface, made by parties other than the owners of the tunnel, shall be considered valid because of the failure of the owners to prosecute work thereon with reasonable diligence as required by this section.

Cessation of hostilities of World War II, was proclaimed at 12 o'clock noon of December 31, 1946, by Proc. No. 2714.

PROMOTION OF MINING

See Promotion of Mining note under section 22 of this title.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 28. Mining district regulations by miners: location, recordation, and amount of work; marking of location on ground; records; annual labor or improvements on claims pending issue of patent; coowner's succession in interest upon delinquency in contributing proportion of expenditures; tunnel as lode expenditure

The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining claims made after May 10, 1872, shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the 10th day of May 1872, and until a patent has been issued therefor, not less than $100 worth of labor shall be performed or improvements made during each year. On all claims located prior to the 10th day of May 1872, $10 worth of labor shall be performed or improvements made each year, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required hereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims located since May 10, 1872, including such claims in the Territory of Alaska, shall commence at 12 o'clock meridian on the 1st day of September succeeding the date of location of such claim.

Where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since May 10, 1872; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by this section. On all such valid claims the annual period ending December 31, 1921, shall continue to 12 o'clock meridian July 1, 1922.

(R.S. § 2324; Feb. 11, 1875, ch. 41, 18 Stat. 315; Jan. 22, 1880, ch. 9, § 2, 21 Stat. 61; Aug. 24, 1921, ch. 84, 42 Stat. 186; Aug. 23, 1958, Pub. L. 85-736, § 1, 72 Stat. 829.)

CODIFICATION

R.S. § 2324 was from act May 10, 1872, ch. 152, § 5, 17 Stat. 92.

AMENDMENTS

1958—Pub. L. 85-736 changed period for doing annual assessment work on unpatented mineral claims, substituting "1st day of September" for "1st day of July".

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

ASSESSMENT WORK YEAR, 1957-58 AND 1958-59

Section 2 of Pub. L. 85-736 provided that the period commencing in 1957 for the performance of annual assessment work under this section shall end at 12 o'clock meridian on the 1st day of July 1958, and the period commencing in 1958 for the performance of such annual assessment work shall commence at 12 o'clock meridian on the 1st day of July 1958, and shall continue to 12 o'clock meridian on Sept. 1, 1959.

CROSS REFERENCES

Alaska, annual labor or improvements on mining claims, see section 49e of this title.

Extension of time for annual assessment work on lands containing valuable source material, see note under section 541a of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Temporary deferment of annual assessment work on mining claims, see section 28b et seq. of this title.

Temporary cessation of requirements for annual expenditures on certain mining claims, see section 1904 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 28-1, 28b, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 16 section 1904; title 43 sections 1712, 1714, 1732; title 50 App. section 565.

§ 28-1. Inclusion of certain surveys in labor requirements of mining claims; conditions and restrictions

The term "labor", as used in the third sentence of section 28 of this title, shall include, without being limited to, geological, geochemical and geophysical surveys conducted by qualified experts and verified by a detailed report filed in the county office in which the claim is located which sets forth fully (a) the location of the work performed in relation to the point of discovery and boundaries of the claim, (b) the nature, extent, and cost thereof, (c) the basic findings therefrom, and (d) the name, address, and professional background of the person or persons conducting the work. Such surveys, however, may not be applied as labor for more than two consecutive years or for more than a total of five years on any one mining claim, and each such survey shall be nonrepetitive of any previous survey on the same claim.

(Pub. L. 85-876, § 1, Sept. 2, 1958, 72 Stat. 1701.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28-2 of this title; title 43 section 1744.

§ 28-2. Definitions

As used in section 28-1 of this title,

(a) The term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(b) The term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(c) The term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(d) The term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical or geophysical surveys, as the case may be.

(Pub. L. 85-876, § 2, Sept. 2, 1958, 72 Stat. 1701.)

§ 28a. Omitted

CODIFICATION

Section, act June 29, 1950, ch. 404, 64 Stat. 275, provided for extension of time of annual assessment work, on mining claims in the United States, including Alaska, for period commencing July 1, 1949, until 12 o'clock noon Oct. 1, 1950, and also provided for commencement of assessment work or improvements required for year ending 12 o'clock noon July 1, 1951, immediately following 12 o'clock noon July 1, 1950. Subject matter is now covered by sections 28b to 28e of this title.

§ 28b. Annual assessment work on mining claims; temporary deferment; conditions

The performance of not less than $100 worth of labor or the making of improvements aggregating such amount, which labor or improvements are required under the provisions of section 28 of this title to be made during each year, may be deferred by the Secretary of the Interior as to any mining claim or group of claims in the United States upon the submission by the claimant of evidence satisfactory to the Secretary that such mining claim or group of claims is surrounded by lands over which a right-of-way for the performance of such assessment work has been denied or is in litigation or is in the process of acquisition under State law or that other legal impediments exist which affect the right of the claimant to enter upon the surface of such claim or group of claims or to gain access to the boundaries thereof.

(June 21, 1949, ch. 232, § 1, 63 Stat. 214.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28c, 28d, 28e of this title.

§ 28c. Length and termination of deferment

The period for which said deferment may be granted shall end when the conditions justifying deferment have been removed: *Provided*, That the initial period shall not exceed one year but may be renewed for a further period of one year if justifiable conditions exist: *Provided further*, That the relief available under sections 28b to 28e of this title is in addition to any relief available under any other Act of Congress with respect to mining claims.

(June 21, 1949, ch. 232, § 2, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28d, 28e of this title.

§ 28d. Performance of deferred work

All deferred assessment work shall be performed not later than the end of the assessment year next subsequent to the removal or cessation of the causes for deferment or the expiration of any deferments granted under sections 28b to 28e of this title and shall be in addition to the annual assessment work required by law in such year.

(June 21, 1949, ch. 232, § 3, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28e of this title.

§ 28e. Recordation of deferment

Claimant shall file or record or cause to be filed or recorded in the office where the notice or certificate of location of such claim or group of claims is filed or recorded, a notice to the public of claimant's petition to the Secretary of the Interior for deferment under sections 28b to 28e of this title, and of the order or decision disposing of such petition.

(June 21, 1949, ch. 232, § 4, 63 Stat. 215.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 28b, 28c, 28d of this title.

§ 29. Patents; procurement procedure; filing: application under oath, plat and field notes, notices, and affidavits; posting plat and notice on claim; publication and posting notice in office; certificate; adverse claims; payment per acre; objections; nonresident claimant's agent for execution of application and affidavits

A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title, and section 661 of title 43, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field notes of the claim or claims in common, made by or under the direction of the Director of the Bureau of Land Management, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground, and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted, and shall file a copy of the notice in such land office, and shall thereupon be entitled to a patent for the land, in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated as published nearest to such claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the Director of the Bureau of Land Management that $500 worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of the sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during such period of publication. If no adverse claim shall have been filed with the register of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of $5 per acre, and that no adverse claim exists; and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with the terms of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43. Where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits.

(R.S. § 2325; Jan. 22, 1880, ch. 9, § 1, 21 Stat. 61; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2325 was from act May 10, 1872, ch. 152, § 6, 17 Stat. 92.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words, in first sentence of text, now reading "United States supervisor of surveys," and words, in next to last sentence of text, now reading "register of the proper land office." Those words formerly read "United States surveyor general" and "register and receiver of the proper land office," respectively. This act abolished the office of surveyor general, and transferred to and consolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the administration, equipment, etc., of such office, and consolidated the offices and functions of the register and receiver.

TRANSFER OF FUNCTIONS

The Director of the Bureau of Land Management was substituted for the United States Supervisor of Surveys wherever appearing. In the establishment of The Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. § 9180.0-3(a)(1).

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to title 5.

See also Transfer of Functions note under section 1 of this title.

CROSS REFERENCES

Determinations by Secretary of the Interior of validity of certain unpatented mining claims, see sections 1905, 1906 of Title 16, Conservation.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Prescott National Forest, issuance and scope of patents affecting lands, see section 482a of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 30. Adverse claims; oath of claimants; requisites; waiver; stay of land office proceedings; judicial determination of right of possession; successful claimants' filing of judgment roll, certificate of labor, and description of claim in land office, and acreage and fee payments; issuance of patents for entire or partial claims upon certification of land office proceedings and judgment roll; alienation of patent title

Where an adverse claim is filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment roll with the register of the land office, together with the certificate of the Director of the Bureau of Land Management that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the register $5 per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment roll shall be certified by the register to the Director of the Bureau of Land Management, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the Director of the Bureau of Land Management whereupon the register shall certify the proceedings and judgment roll to the Director of the Bureau of Land Management, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

(R.S. § 2326; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2326 was from act May 10, 1872, ch. 152, § 7, 17 Stat. 93.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words, in third and fourth sentences of text, now reading "United States supervisor of surveys", and words, in third sentence of text, now reading "pay to the register $5 per acre." Such words formerly read "surveyor-general", and "pay to the receiver five dollars per acre", respectively. Such act is treated more fully in notes under section 29 of this title.

TRANSFER OF FUNCTIONS

The Director of the Bureau of Land Management was substituted for the United States Supervisor of Surveys following the words "certificate of the" in sentence beginning "After such judgment" and following the words "description by the" in sentence beginning "If it appears". In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. § 9180.0-3(a)(1).

"Director of the Bureau of Land Management" was substituted for "Commissioner of the General Land Office" following the words "register to the" in sentence beginning "After such judgment" and in sentence beginning "If it appears" following the words "judgment roll to the" on authority of Reorg. Plan No. 3 of 1946, set § 403, set out in the Appendix to title 5. Section 403 of Reorg. Plan No. 3 of 1946, abolished the office of the Commissioner of the General Land Office and consolidated the functions of the General Land Office with the Grazing Service to form the Bureau of Land Management.

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to title 5.

CROSS REFERENCES

Civil actions for just compensation by holders of mining claims within National Park System mining areas, see section 1910 of Title 16, Conservation.

Determinations by Secretary of the Interior of validity of certain unpatented mining claims, see sections 1905, 1906 of Title 16.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Recordation of mining claims within National Park System areas, see section 1907 of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 31. Oath: agent or attorney in fact, beyond district of claim

The adverse claim required by section 30 of this title may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

(Apr. 26, 1882, ch. 106, § 1, 22 Stat. 49.)

§ 32. Findings by jury; costs

If, in any action brought pursuant to section 30 of this title, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land office or be entitled to a patent for the ground in controversy until he shall have perfected his title.

(Mar. 3, 1881, ch. 140, 21 Stat. 505.)

FEDERAL RULES OF CIVIL PROCEDURE

Continuation of section under rule 54, see note by Advisory Committee under rule 54, Title 28, Appendix, Judiciary and Judicial Procedure.

Judgment and costs, see rule 54.

§ 33. Existing rights

All patents for mining claims upon veins or lodes issued prior to May 10, 1872, shall convey all the rights and privileges conferred by sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 where no adverse rights existed on the 10th day of May, 1872.

(R.S. § 2328.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2328 was from act May 10, 1872, ch. 152, § 9, 17 Stat. 94.

Provision respecting prosecution of applications for patents for mining claims in General Land Office, pending May 10, 1872, was omitted from the Code as executed.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 34. Description of vein claims on surveyed and unsurveyed lands; monuments on ground to govern conflicting calls

The description of vein or lode claims upon surveyed lands shall designate the location of the claims with reference to the lines of the public survey, but need not conform therewith; but where patents have been or shall be issued for claims upon unsurveyed lands, the Director of the Bureau of Land Management in extending the public survey, shall adjust the same to the boundaries of said patented claims so as in no case to interfere with or change the true location of such claims as they are officially established upon the ground. Where patents have issued for mineral lands, those lands only shall be segregated and shall be deemed to be patented which are bounded by the lines actually marked, defined, and established upon the ground by the monuments of the official survey upon which the patent grant is based, and the Director of the Bureau of Land Management in executing subsequent patent surveys, whether upon surveyed or unsurveyed lands, shall be governed accordingly. The said monuments shall at all times constitute the highest authority as to what land is patented, and in case of any conflict between the said monuments of such patented claims and the descriptions of said claims in the patents issued therefor the monuments on the ground shall govern, and erroneous or inconsistent descriptions or calls in the patent descriptions shall give way thereto.

(R.S. § 2327; Apr. 28, 1904, ch. 1796, 33 Stat. 545; Mar. 3, 1925, ch. 462, 43 Stat. 1144; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2327 was from act May 10, 1872, ch. 152, § 8, 17 Stat. 94.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words now reading "United States supervisor of surveys" in first and second sentences of text. These words formerly read "the surveyor-general." This act abolished the office of surveyor general, and transferred to and consolidated with the Field Surveying Service, under the jurisdiction of the U.S. Supervisor of Surveys, the administration, equipment, etc., of such office.

TRANSFER OF FUNCTIONS

The Director of the Bureau of Land Management, was substituted for the United States Supervisor of Surveys wherever appearing. In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exer-

cised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. § 9180.0-3(a)(1).

See also Transfer of Functions note under section 1 of this title.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 35. Placer claims; entry and proceedings for patent under provisions applicable to vein or lode claims; conforming entry to legal subdivisions and surveys; limitation of claims; homestead entry of segregated agricultural land

Claims usually called "placers," including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands. And where placer claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the 10th day of May 1872, shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead purposes.

(R.S. §§ 2329, 2331; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

CODIFICATION

R.S. § 2329 was from act July 9, 1870, ch. 235, § 12, 16 Stat. 217.

R.S. § 2331 was from act May 10, 1872, ch. 152, § 10, 17 Stat. 94.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Alaska, mining laws relating to placer claims extended to, see section 49b of this title.

Building stone lands, see section 161 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Saline lands, see section 162 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 36. Subdivisions of 10-acre tracts; maximum of placer locations; homestead claims of agricultural lands; sale of improvements

Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer claim, made after the 9th day of July 1870, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona fide homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona fide settler to any purchaser.

(R.S. § 2330; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

CODIFICATION

R.S. § 2330 was from act July 9, 1870, ch. 235, § 12, 16 Stat. 217.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48 of this title.

§ 37. Proceedings for patent where boundaries contain vein or lode; application; statement including vein or lode; issuance of patent: acreage payments for vein or lode and placer claim; costs of proceedings; knowledge affecting construction of application and scope of patent

Where the same person, association, or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer claim, subject to the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, including such vein or lode, upon the payment of $5 per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of $2.50 per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section 23 of this title, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of

possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

(R.S. § 2333.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2333 was from act May 10, 1872, ch. 152, § 11, 17 Stat. 94.

CROSS REFERENCES

Annual assessment labor upon oil lands located as placer mining claims, see section 102 of this title.

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Petroleum, mineral oil or gas lands, patents, see section 103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 38. Evidence of possession and work to establish right to patent

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, in the absence of any adverse claim; but nothing in such sections shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

(R.S. § 2332.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2332 was from act July 9, 1870, ch. 235, § 13, 16 Stat. 217.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 39, 40, 42, 46, 47, 48 of this title.

§ 39. Surveyors of mining claims

The Director of the Bureau of Land Management may appoint in each land district containing mineral, lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Director of the Bureau of Land Management shall also have power to establish the maximum charges for surveys and publication of notices under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Director may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the register of the land office, which statement shall be transmitted, with the other papers in the case, to the Director of the Bureau of Land Management.

(R.S. § 2334; Mar. 3, 1925, ch. 462, 43 Stat. 1144, 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2334 was from act May 10, 1872, ch. 152, § 12, 17 Stat. 95.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words in first sentence of text, now reading "The United States supervisor of surveys," and words in third sentence of text, now reading "money paid the register of the Land Office." Such words formerly read "the surveyor-general of the United States," and "and money paid the register and the receiver of the land-office." Such act is treated more fully in note under section 29 of this title.

TRANSFER OF FUNCTIONS

The Director of the Bureau of Land Management was substituted for the United States Supervisor of Surveys in sentence beginning "The Director of the Bureau of Land Management may appoint". In the establishment of the Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11

F.R. 7876, set out in the Appendix to Title 5, Government Organization and Employees, the office of Supervisor of Surveys was abolished and the functions and powers were transferred to the Secretary of the Interior, to be performed by such officers or agencies of the Department as might be designated by the Secretary. Under that authority, the functions and powers formerly exercised by the Supervisor of Surveys were delegated to the Chief Cadastral Engineer, subject to the supervision of the Director of the Bureau of Land Management. In the general reorganization and realignment of functions of the Bureau, the office of the Chief Cadastral Engineer was abolished, and the functions of that office have been delegated to the Director of the Bureau of Land Management. See 43 C.F.R. § 9180.0-3(a)(1).

In the sentence beginning "The Director of the Bureau of Land Management shall also have power", "Director of the Bureau of Land Management" was substituted for "Commissioner of the General Land Office" in two instances and "Director" for "Commissioner" on authority of Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to title 5. Section 403 of Reorg. Plan No. 3 of 1946, abolished the office of the Commissioner of the General Land Office and consolidated the functions of the General Land Office with the Grazing Service to form the Bureau of Land Management.

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to title 5.

See also Transfer of Functions note set out under section 1 of this title.

CROSS REFERENCES

Alabama lands, see section 171 of this title.

Kansas and Missouri lands, see section 49 of this title.

Restriction on officers, clerks, and employees, see section 11 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 40. Verification of affidavits

All affidavits required to be made under sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title, and section 661 of title 43 may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

(R.S. § 2335; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2335 was from act May 10, 1872, ch. 152, § 13, 17 Stat. 95.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words in first sentence of text, now reading "before the register of the land office." Such words formerly read "before the register and receiver of the land-office." Such act is treated more fully in note under section 29 of this title.

TRANSFER OF FUNCTIONS

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also Transfer of Functions note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 41. Intersecting or crossing veins

Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right-of-way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

(R.S. § 2336.)

CODIFICATION

R.S. § 2336 was from act May 10, 1872, ch. 152, § 14, 17 Stat. 96.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 42. Patents for nonmineral lands: application, survey, notice, acreage limitation, payment

(a) Vein or lode and mill site owners eligible

Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location made on and after May 10, 1972

of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

(b) Placer claim owners eligible

Where nonmineral land is needed by the proprietor of a placer claim for mining, milling, processing, beneficiation, or other operations in connection with such claim, and is used or occupied by the proprietor for such purposes, such land may be included in an application for a patent for such claim, and may be patented therewith subject to the same requirements as to survey and notice as are applicable to placers. No location made of such nonmineral land shall exceed five acres and payment for the same shall be made at the rate applicable to placer claims which do not include a vein or lode.

(R.S. § 2337; Mar. 18, 1960, Pub. L. 86-390, 74 Stat. 7.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2337 was from act May 10, 1872, ch. 152, § 15, 17 Stat. 96.

AMENDMENTS

1960—Pub. L. 86-390 designated existing provisions as subsec. (a) and added subsec. (b).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 46, 47, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 43. Conditions of sale by local legislature

As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

(R.S. § 2338.)

CODIFICATION

R.S. § 2338 was from act July 26, 1866, ch. 262, § 5, 14 Stat. 252.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48 of this title.

§§ 44, 45. Omitted

CODIFICATION

Section 44, R.S. § 2341; act Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097, provided for extension of provisions of Homestead laws to citizens of United States who had prior to 1874 located on lands designated prior to 1866 as mineral lands, and improved them for agricultural purposes, provided no valuable mineral deposits had been discovered thereon.

Section 45, R.S. § 2342; act Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097, provided for setting apart the lands as agricultural.

§ 46. Additional land districts and officers

The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43.

(R.S. § 2343.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2343 was from act July 26, 1866, ch. 262, § 7, 14 Stat. 252.

DELEGATION OF FUNCTIONS

For delegation to the Secretary of the Interior of authority vested in the President by this section, see Ex. Ord. No. 10250, June 5, 1951, 16 F.R. 5385, set out as a note under section 301 of Title 3, The President.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 47, 48 of this title.

§ 47. Impairment of rights or interests in certain mining property

Nothing contained in sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43 shall be construed to impair in any way, rights or interests in mining property acquired under laws in force prior to July 9, 1870; nor to affect the provisions of the act entitled "An act granting to A. Sutro the right-of-way and other privileges to aid in the construction of a drainage and exploring tunnel to the Comstock lode, in the State of Nevada", approved July 25, 1866.

(R.S. § 2344.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of title 43, was in the original, "this chapter", meaning chapter 6 (§ 2318 to 2352) of title XXXII of the Revised Statutes.

Sections 44 and 45 of this title, included within the reference to sections 33 to 48 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2344 was from acts July 9, 1870, ch. 235, § 17, 16 Stat. 218; May 10, 1872, ch. 152, § 16, 17 Stat. 96.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 48, 49, 541b of this title; title 43 sections 1712, 1714, 1732.

§ 48. Lands in Michigan, Wisconsin, and Minnesota; sale and disposal as public lands

Except as otherwise provided in subchapters I to VII of chapter 3A of this title, the provisions of sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 47, 51, and 52 of this title and section 661 of title 43 shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the 10th day of May 1872. And any bona fide entries of such lands within the States named since the 10th day of May 1872 may be patented without reference to such sections of this title. Such lands shall be offered for public sale in the same manner, and at the same minimum price, as other public lands.

(R.S. § 2345; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097; Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437.)

REFERENCES IN TEXT

Reference to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 47, 51 and 52 of this title and section 661 of title 43, was in the original, "the preceding provisions of this chapter", meaning chapter 6 of title XXXII of the Revised Statutes, consisting of sections 2318 to 2344.

Sections 44 and 45 of this title, included within the reference to sections 33 to 47 of this title, were omitted from the Code as obsolete.

CODIFICATION

R.S. § 2345 was from act Feb. 18, 1873, ch. 159, 17 Stat. 465.

AMENDMENTS

1920—The exception clause has been inserted at the beginning of this section because of act Feb. 25, 1920, which provided that deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, shall be subject to disposition in the form and manner provided by this act.

CROSS REFERENCES

Alabama mineral lands excepted, see section 171 of this title.

Alabama public lands reclassified to determine right to reentry as homestead in such state lands reclassified as agricultural, see section 172 of this title.

Kansas and Missouri mineral lands excepted, see section 49 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47 of this title.

§ 49. Lands in Missouri and Kansas; disposal as agricultural lands

Except as otherwise provided in subchapters I to VII of chapter 3A of this title, within the States of Missouri and Kansas deposits of coal, iron, lead, or other mineral are excluded from the operation of the provisions of sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title, and all lands in said States shall be subject to disposal as agricultural lands.

(May 5, 1876, ch. 91, 19 Stat. 52; Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437.)

REFERENCES IN TEXT

The provisions of sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title, referred to in text, in the original read "the act entitled 'an Act to promote the development of mining resources of the United States' approved May tenth, eighteen hundred and seventy-two", meaning act May 10, 1872, ch. 152, §§ 1 to 16, 17 Stat. 91. Sections 1 to 16 of such act were set out in the Revised Statutes as sections 2319 to 2328, 2331, 2333 to 2337, and 2344 thereof. Such sections of the Revised Statutes are now set out as sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title.

AMENDMENTS

1920—The exception clause has been inserted at the beginning of this section because of act Feb. 25, 1920 which provided that deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, shall be subject to disposition in the form and manner provided by such act.

§ 49a. Mining laws of United States extended to Alaska; exploration and mining for precious metals; regulations; conflict of laws; permits; dumping tailings; pumping from sea; reservation of roadway; title to land below line of high tide or high-water mark; transfer of title to future State

The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are extended to the Territory of Alaska: *Provided*, That, subject only to the laws enacted by Congress for the protection and preservation of the navigable waters of the United States, and to the laws for the protection of fish and game, and subject also to such general rules and regulations as the Secretary of the Interior may prescribe for the preservation of order and the prevention of injury to the fish and game, all land below the line of ordinary high tide on tidal waters and all land below the line of ordinary high-water mark on nontidal water navigable in fact, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals, and in the Chilkat River, and its tributaries, within two and three-tenths miles of United States survey numbered 991 for all metals, by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: *Provided further*, That the rules and regulations established by the miners shall not be in conflict with the mining laws of the United States;

and no exclusive permit shall be granted by the Secretary of the Interior authorizing any person or persons, corporation, or company to excavate or mine under any of said waters, and if such exclusive permit has been granted it is revoked and declared null and void. The rules and regulations prescribed by the Secretary of the Interior under this section shall not, however, deprive miners on the beach of the right given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation or impair the fish and game, and the reservation of a roadway sixty feet wide under section 687a–2 of title 43, shall not apply to mineral lands or town sites. No person shall acquire by virtue of this section any title to any land below the line of ordinary high tide or the line of ordinary high-water mark, as the case may be, of the waters described in this section. Any rights or privileges acquired hereunder with respect to mining operations in land, title to which is transferred to a future State upon its admission to the Union and which is situated within its boundaries, shall be terminable by such State, and the said mining operations shall be subject to the laws of such State.

(June 6, 1900, ch. 786, § 26, 31 Stat. 329; May 31, 1938, ch. 297, 52 Stat. 588; Aug. 8, 1947, ch. 514, § 1, 61 Stat. 916; Aug. 14, 1958, Pub. L. 85–662, 72 Stat. 615.)

CODIFICATION

Section was formerly classified to section 381 of Title 48, Territories and Insular Possessions.

AMENDMENTS

1958—Pub. L. 85–662 substituted "fish and game" for "fisheries" in three instances, and inserted provisions permitting mining for all metals in the Chilkat River, and its tributaries, within two and three-tenths miles of United States survey numbered 991.

1947—Act Aug. 8, 1947, permitted the exploration for and mining of gold and other precious metals in beds of navigable streams.

1938—Act May 31, 1938, extended waters subject to exploration and mining for gold to include all water on the shores, bays, and inlets of Alaska, and substituted the Secretary of the Interior for the Secretary of War, among other changes.

NON-IMPAIRMENT OF VALID CLAIMS AND RIGHTS

Section 2 of act Aug. 8, 1947, provided: "Nothing in this Act [this section] shall be deemed to affect or impair any valid claims, rights or privileges, including possessory claims under the first proviso of section 8 of the Act of May 17, 1884 (23 Stat. 26) [section 280a of Title 25, Indians], arising under any other provision of law."

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 49b. Mining laws relating to placer claims extended to Alaska

The general mining laws of the United States so far as they are applicable to placer-mining claims, as prior to May 4, 1934, extended to the Territory of Alaska, are declared to be in full force and effect in said Territory: *Provided*, That nothing herein shall be held to change or affect the rights acquired by locators or owners of placer-mining claims prior to May 4, 1934, located in said Territory under act August 1, 1912 (37 Stat. 242, 243) and amendatory act March 3, 1925 (43 Stat. 1118).

(May 4, 1934, ch. 211, § 2, 48 Stat. 663.)

REFERENCES IN TEXT

Act August 1, 1912 (37 Stat. 242, 243) and amendatory act March 3, 1925 (43 Stat. 1118), referred to in the text, were repealed by section 1 of act May 4, 1934, and are now covered by this section and sections 35 to 37 of this title.

CODIFICATION

Section was formerly classified to section 381a of Title 48, Territories and Insular Possessions.

EFFECTIVE DATE

Section 3 of act May 4, 1934 provided that: "This Act [this section] shall take effect thirty days subsequent to the date of convening of the first regular session of the Alaska Territorial Legislature which is held after the passage of this Act [May 4, 1934]."

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 49c. Recording notices of location of Alaskan mining claims

Notices of location of mining claims shall be filed for record within ninety days from the date of the discovery of the claim described in the notice, and all instruments shall be recorded in the recording district in which the property or subject matter affected by the instrument is situated, and where the property or subject matter is not situated in any established recording district the instrument affecting the same shall be recorded in the office of the clerk of the division of the court having supervision over the recording division in which such property or subject matter is situated.

(June 6, 1900, ch. 786, § 15, 31 Stat. 327.)

CODIFICATION

Section was formerly classified to section 382 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Recordation of mining claims within National Park System areas, see section 1907 of Title 16, Conservation.

§ 49d. Miners' regulations for recording notices in Alaska; certain records legalized

Miners in any organized mining district may make rules and regulations governing the recording of notices of location of mining claims, water rights, flumes and ditches, mill sites and affidavits of labor, not in conflict with this Act or the general laws of the United States; and nothing in this Act shall be construed so as to prevent the miners in any regularly organized mining district not within any recording district established by the court from electing their own mining recorder to act as such until a recorder therefor is appointed by the court: *Pro-*

vided further, All records regularly made by the United States commissioner prior to June 6, 1900, at Dyea, Skagway, and the recorder at Douglas City, not in conflict with any records regularly made with the United States commissioner at Juneau, are legalized. And all records made in good faith prior to June 6, 1900, in any regularly organized mining district are made public records.

(June 6, 1900, ch. 786, § 16, 31 Stat. 328.)

REFERENCES IN TEXT

This Act, referred to in text, is act June 6, 1900, ch. 786, 31 Stat. 321, which is classified to sections 49a, 49c, and 49d of this title, section 15 of former Title 10, Army [see, now, section 1385 of Title 18, Crimes and Criminal Procedure], and section 280a of Title 25, Indians. Other provisions of this Act were classified to sections 25 to 35, 36, 40, 42, 43, 61 to 64, 101, 102 to 110, 112 to 114, 116, 117 to 120 of Title 48, Territories and Insular Possessions, but have been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was formerly classified to section 383 of Title 48, Territories and Insular Possessions.

§ 49e. Annual labor or improvements on Alaskan mining claims; affidavits; burden of proof; forfeitures; location anew of claims; perjury

During each year and until patent has been issued therefor, at least $100 worth of labor shall be performed or improvements made on, or for the benefit or development of, in accordance with existing law, each mining claim in Alaska heretofore or hereafter located. And the locator or owner of such claim or some other person having knowledge of the facts may also make and file with the said recorder of the district in which the claims shall be situated an affidavit showing the performance of labor or making of improvements to the amount of $100 as aforesaid and specifying the character and extent of such work. Such affidavits shall set forth the following: First, the name or number of the mining claims and where situated; second, the number of days' work done and the character and value of the improvements placed thereon; third, the date of the performance of such labor and of making improvements; fourth, at whose instance the work was done or the improvements made; fifth, the actual amount paid for work and improvement, and by whom paid when the same was not done by the owner. Such affidavit shall be prima facie evidence of the performance of such work or making of such improvements, but if such affidavits be not filed within the time fixed by this section the burden of proof shall be upon the claimant to establish the performance of such annual work and improvements. And upon failure of the locator or owner of any such claim to comply with the provisions of this section, as to performance of work and improvements, such claim shall become forfeited and open to location by others as if no location of the same had ever been made. The affidavits required may be made before any officer authorized to administer oaths, and the provisions of sections 1621 and 1622 of title 18, are extended to such affidavits. Said affidavits shall be filed not later than ninety days after the close of the year in which such work is performed.

(Mar. 2, 1907, ch. 2559, § 1, 34 Stat. 1243.)

CODIFICATION

"Sections 1621 and 1622 of title 18" were substituted for "sections fifty-three hundred and ninety-two and fifty-three hundred ninety-three of the Revised Statutes", which had been classified to section 231 and 232 of former Title 18, Criminal Code and Criminal Procedure, on authority of act June 25, 1948, ch. 645, 62 Stat. 683, section 1 of which enacted Title 18, Crimes and Criminal Procedure.

Section was formerly classified to section 384 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Period for annual work on claims, including those in Alaska, to commence at 12 o'clock meridian on the 1st day of September succeeding the date of location of such claim, see section 28 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 49f of this title.

§ 49f. Fees of recorders in Alaska for filing proofs of work and improvements

The recorders for the several divisions or districts of Alaska shall collect the sum of $1.50 as a fee for the filing, recording, and indexing annual proofs of work and improvements for each claim so recorded under the provisions of section 49e of this title.

(Mar. 2, 1907, ch. 2559, § 2, 34 Stat. 1243.)

CODIFICATION

Section was formerly classified to section 385 of Title 48, Territories and Insular Possessions.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 50. Grants to States or corporations not to include mineral lands

No act passed at the first session of the Thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants made prior to the 30th day of January 1865 shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the act or acts making the grant.

(R.S. § 2346.)

REFERENCES IN TEXT

The first session of the Thirty-eighth Congress was begun Dec. 7, 1863, and ended July 4, 1864, 13 Stat. 1 to 417, containing legislation passed at such session.

CODIFICATION

R.S. § 2346 was from Res. Jan. 30, 1865, No. 10, 13 Stat. 567.

CROSS REFERENCES

Selection of coal lands by the several States reserving the coal to the United States, see section 90 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47 of this title.

§ 51. Water users' vested and accrued rights; enumeration of uses; protection of interest; rights-of-way for canals and ditches; liability for injury or damage to settlers' possession

Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right-of-way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

(R.S. § 2339.)

REPEALS

Provision of this section, "and the right-of-way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage." was repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

R.S. § 2339 was from act July 26, 1866, ch. 262, § 9, 14 Stat. 253.

Section is also set out as the first par. of section 661 of Title 43, Public Lands.

SAVINGS PROVISIONS

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see Savings Provisions note under section 1701 of Title 43, Public Lands.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

Rights-of-way and other easements in public lands, see section 931 et seq. of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48, 52 of this title.

§ 52. Patents or homesteads subject to vested and accrued water rights

All patents granted, or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by section 51 of this title.

(R.S. § 2340; Mar. 3, 1891, ch. 561, § 4, 26 Stat. 1097.)

REPEALS

Provision of this section, ", or rights to ditches and reservoirs used in connection with such water rights," was repealed by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, effective on and after Oct. 21, 1976, insofar as applicable to the issuance of rights-of-way over, upon, under, and through the public lands and lands in the National Forest System.

CODIFICATION

R.S. § 2340 was from act July 9, 1870, ch. 235, § 17, 16 Stat. 218.

Section is also set out as the second par. of section 661 of Title 43, Public Lands.

SAVINGS PROVISIONS

Repeal by Pub. L. 94-579, title VII, § 706(a), Oct. 21, 1976, 90 Stat. 2793, insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see Savings Provisions note under section 1701 of Title 43, Public Lands.

SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of Title 43, Public Lands.

CROSS REFERENCES

Michigan, Minnesota and Wisconsin mineral lands, see section 48 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 48 of this title.

§ 53. Possessory actions for recovery of mining titles or for damages to such title

No possessory action between persons, in any court of the United States, for the recovery of any mining title, or for damages to any such title, shall be affected by the fact that the paramount title to the land in which such mines lie is in the United States; but each case shall be adjudged by the law of possession.

(R.S. § 910.)

CODIFICATION

Section was formerly classified to section 690 of Title 28 prior to the general revision and enactment of

Title 28, Judiciary and Judicial Procedure, by act June 25, 1948, ch. 646, § 1, 62 Stat. 869.

CROSS REFERENCES

Civil actions for just compensation by holders of mining claims within National Park System mining areas, see section 1910 of Title 16, Conservation.

§ 54. Liability for damages to stock raising and homestead entries by mining activities

Notwithstanding the provisions of any Act of Congress to the contrary, any person who on and after June 21, 1949 prospects for, mines, or removes by strip or open pit mining methods, any minerals from any land included in a stock raising or other homestead entry or patent, and who had been liable under such an existing Act only for damages caused thereby to the crops or improvements of the entryman or patentee, shall also be liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals. Nothing in this section shall be considered to impair any vested right in existence on June 21, 1949.

(June 21, 1949, ch. 232, § 5, 63 Stat. 215.)

SIMILAR PROVISIONS

Provisions similar to this section were contained in act June 17, 1949, ch. 221 § 2, 63 Stat. 201.

CROSS REFERENCES

Damage to natural and historical landmarks within National Park System, procedures for determination and enforcement of abatement of activities, see section 1908 of Title 16, Conservation.

CHAPTER 3—LANDS CONTAINING COAL, OIL, GAS, SALTS, ASPHALTIC MATERIALS, SODIUM, SULPHUR, AND BUILDING STONE

SUBCHAPTER I—COAL LAND ENTRIES IN GENERAL

Sec.
71. Entry of unappropriated or unreserved Federal coal lands; eligibility; application; acreage limitation; price per acre.
72. Preference right of coal mine entry; acreage limitation.
73. Presentation of claims.
74. Number of coal land entries; other entries upon noncompliance with conditions.
75. Conflicting claims upon coal lands; rules and regulations.
76. Reservation of rights upon coal lands; sale of certain mining lands.
77. Alabama coal lands; agricultural entry.

SUBCHAPTER II—COAL LAND ENTRIES UNDER NONMINERAL LAND LAWS WITH RESERVATION OF COAL TO UNITED STATES

81. Rights of entrymen of lands subsequently classified as coal lands; disposal of coal deposits.
82. New or supplemental patents, in case of lands subsequently classified as noncoal.
83. Homestead or desert-land and other entries.
84. Applications for entry.
85. Patents for lands, with reservation of coal; disposal of coal deposits.
86. Disposition of lands in Indian reservations with reservation of coal; examination and appraisal of lands.
87. Statements in application; patents.
88. Disposition of coal by United States.
89. Disposition of proceeds.
90. Selection of coal lands by States; sale in isolated or disconnected tracts.

SUBCHAPTER III—PETROLEUM, OTHER MINERAL OIL, OR GAS LAND ENTRIES UNDER MINING LAWS

Sec.
101. Omitted.
102. Assessment work on contiguous oil lands, located as claims, of same owner.
103. Patents for oil or gas lands not denied because of transfer before discovery of oil or gas; acreage limitation; nonapplication to withdraw lands.
104. Agreements with applicants for patents as to disposition of oil or gas, or proceeds thereof, pending determination of title; Navy Petroleum Fund.

SUBCHAPTER IV—HOMESTEAD ENTRY OF LANDS IN UTAH, WITHDRAWN OR CLASSIFIED AS OIL LANDS

111 to 113. Repealed.

SUBCHAPTER V—AGRICULTURAL ENTRY OF LANDS WITHDRAWN OR CLASSIFIED AS CONTAINING PHOSPHATE, NITRATE, POTASH, OIL, GAS, ASPHALTIC MINERALS, SODIUM, OR SULPHUR

121. Agricultural entry or purchase of lands withdrawn or classified as containing phosphate, nitrate, potash, oil, or gas; reservations to United States; application.
122. Patents; reservation in the United States of reserved deposits; acquisition of right to remove deposits; application for entry to disprove classification.
123. Persons locating lands subsequently withdrawn or classified; patents to.
124. Agricultural entry or purchase of lands withdrawn or classified as containing sodium or sulphur.
125. Patents in North Platte Reclamation Project; mineral rights; subrogation.

SUBCHAPTER VI—LOCATION OF PHOSPHATE ROCK LANDS UNDER PLACER-MINING LAWS

131. Omitted.

SUBCHAPTER VII—PERMITS TO PROSPECT FOR CHLORIDES, SULPHATES, CARBONATES, BORATES, SILICATES, OR NITRATES OF POTASSIUM

141 to 152. Repealed.

SUBCHAPTER VIII—BUILDING STONE OR SALINE LAND ENTRIES UNDER PLACER-MINING LAWS

161. Entry of building-stone lands; previous law unaffected.
162. Entry of saline lands; limitation.

SUBCHAPTER IX—DISPOSAL OF ALABAMA LANDS AS AGRICULTURAL LANDS

171. Disposal as agricultural lands.
172. Certain Alabama lands subject to homestead entry.

SUBCHAPTER I—COAL LAND ENTRIES IN GENERAL

§ 71. Entry of unappropriated or unreserved Federal coal lands; eligibility; application; acreage limitation; price per acre

Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by competent

authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the register of not less than $10 per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than $20 per acre for such lands as shall be within fifteen miles of such road.

(R.S. § 2347; Mar. 3, 1925, ch. 462, 43 Stat. 1145.)

CODIFICATION

R.S. § 2347 was from act Mar. 3, 1873, ch. 279, § 1, 17 Stat. 607.

AMENDMENTS

1925—Act Mar. 3, 1925, affected words which now read "upon payment to the register of not less than." Such words originally read "upon payment to the receiver of not less than." Such act consolidated the offices of receiver and register.

TRANSFER OF FUNCTIONS

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also Transfer of Functions note under section 1 of this title.

INDIAN LANDS EXCEPTED

Commenting on this section and sections 72 to 76 of this title the Department of the Interior says:

"While there may be some Indian lands still subject to coal entry by virtue of the provisions of law opening such lands to entry, the coal land laws generally were superseded by the leasing Act of Feb. 25, 1920, 41 Stat. 437 [section 181 et seq. of this title], and it is at least questionable whether the coal land laws should be carried into the Code."

CROSS REFERENCES

Agricultural entries on lands withdrawn or classified as coal lands or valuable for coal, see sections 83 to 85 of this title.

Disposition of coal deposits, form and manner, see section 193 of this title.

Leases and prospecting permits, see section 201 et seq. of this title.

State selections of lands withdrawn or classified as coal lands or valuable for coal under grants by Congress, see section 90 of this title.

Submerged lands, mineral rights generally, see section 1301 et seq. of Title 43, Public Lands.

Surface rights of entrymen, protection of, when entry under nonmineral land laws of lands subsequently classified, claimed, or reported as coal lands, see section 81 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 72, 74, 75, 76 of this title.

§ 72. Preference right of coal mine entry; acreage limitation

Any person or association of persons severally qualified, as provided in section 71 of this title, who have opened and improved, or shall open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry, under section 71 of this title, of the mines so opened and improved: *Provided*, That when any association of not less than four persons, severally qualified as provided in section 71 of this title, shall have expended not less than $5,000 in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

(R.S. § 2348.)

CODIFICATION

R.S. § 2348 was from act Mar. 3, 1873, ch. 279, § 2, 17 Stat. 607.

INDIAN LANDS EXCEPTED

See note under section 71 of this title.

CROSS REFERENCES

Disposition of coal deposits, form and manner, see section 193 of this title.

Leases and prospecting permits, see section 201 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 73, 74, 75, 76 of this title.

§ 73. Presentation of claims

All claims under section 72 of this title must be presented to the register of the proper land district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office.

(R.S. § 2349.)

CODIFICATION

R.S. § 2349 was from act Mar. 3, 1873, ch. 279, § 3, 17 Stat. 607.

TRANSFER OF FUNCTIONS

The office of the register of the district land office was abolished and all the functions of the register transferred to the Secretary of the Interior, or to officers and agencies of the Department of the Interior as the Secretary may designate, by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees.

See also Transfer of Functions note under section 1 of this title.

INDIAN LANDS EXCEPTED

See note under section 71 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 74, 75, 76 of this title.

§ 74. Number of coal land entries; other entries upon noncompliance with conditions

Sections 71 to 73 of this title shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of

such sections shall enter or hold any other lands under their provisions; and all persons claiming under section 72 of this title shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

(R.S. § 2350.)

CODIFICATION

R.S. § 2350 was from act Mar. 3, 1873, ch. 279, § 4, 17 Stat. 607.

INDIAN LANDS EXCEPTED

See note under section 71 of this title.

CROSS REFERENCES

Disposition of coal deposits, form and manner, see section 193 of this title.

Leases and prospecting permits, see section 201 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 75, 76 of this title.

§ 75. Conflicting claims upon coal lands; rules and regulations

In case of conflicting claims upon coal lands where the improvements shall be commenced, after the 3d day of March 1873, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the 3d day of March 1873, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Director of the Bureau of Land Management is authorized to issue all needful rules and regulations for carrying into effect the provisions of this section and sections 71 to 74 of this title.

(R.S. § 2351; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

R.S. § 2351 was from act Mar. 3, 1873, ch. 279, § 5, 17 Stat. 608.

TRANSFER OF FUNCTIONS

"Director of the Bureau of Land Management" was substituted for "Commissioner of the General Land Office" on authority of Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to Title 5, Government Organization and Employees.

See also Transfer of Functions note under section 1 of this title.

INDIAN LANDS EXCEPTED

See note under section 71 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47, 76 of this title.

§ 76. Reservation of rights upon coal lands; sale of certain mining lands

Nothing in sections 71 to 75 of this title shall be construed to destroy or impair any rights which may have attached prior to the 3d day of March 1873, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

(R.S. § 2352.)

CODIFICATION

R.S. § 2352 was from act Mar. 3, 1873, ch. 279, § 6, 17 Stat. 608.

INDIAN LANDS EXCEPTED

See note under section 71 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 29, 33, 37, 38, 39, 40, 42, 46, 47 of this title.

§ 77. Alabama coal lands; agricultural entry

Unreserved public lands containing coal deposits in the State of Alabama which on April 23, 1912, were being withheld from homestead entry under the provisions of section 171 of this title, may be entered under the homestead laws of the United States subject to the provisions, terms, conditions, and limitations prescribed in sections 83 to 85 of this title.

(Apr. 23, 1912, ch. 87, 37 Stat. 90.)

REFERENCES IN TEXT

The homestead laws of the United States, referred to in the text, are classified generally to chapter 7 (§ 161 et seq.) of Title 43, Public Lands.

SUBCHAPTER II—COAL LAND ENTRIES UNDER NONMINERAL LAND LAWS WITH RESERVATION OF COAL TO UNITED STATES

§ 81. Rights of entrymen of lands subsequently classified as coal lands; disposal of coal deposits

Any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction. The owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit. Nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, select-

ed, or entered by him. Such locator, selector, or entryman who has made or shall make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

(Mar. 3, 1909, ch. 270, 35 Stat. 844.)

LANDS IN NORTH PLATTE RECLAMATION PROJECT; MINERAL RIGHTS

Patents for lands in North Platte Reclamation Project not to contain reservations of minerals in certain cases, see section 125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 82, 125, 541c of this title.

§ 82. New or supplemental patents, in case of lands subsequently classified as noncoal

The Secretary of the Interior is authorized and directed in cases where patents for public lands have been issued to entrymen under the provisions of sections 81 and 83 to 85 of this title, reserving to the United States all coal deposits therein, and lands so patented are subsequently classified as noncoal in character, to issue new or supplemental patents without such reservation.

(Apr. 14, 1914, ch. 55, 38 Stat. 335.)

§ 83. Homestead or desert-land and other entries

Unreserved public lands of the United States exclusive of Alaska which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section 641 of title 43, and to withdrawal under the Act approved June seventeenth, nineteen hundred and two, known as the Reclamation Act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same. But all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under section 218 of title 43. Those who have initiated nonmineral entries, selections, or locations in good faith, prior to June 22, 1910, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in sections 83 to 85 of this title.

(June 22, 1910, ch. 318, § 1, 36 Stat. 583; June 16, 1955, ch. 145, § 1, 69 Stat. 138.)

REFERENCES IN TEXT

The homestead laws, referred to in the text, are classified generally to chapter 7 (§ 161 et seq.) of Title 43, Public Lands.

The desert-land law, referred to in the text, is classified generally to chapter 9 (§ 321 et seq.) of Title 43.

The Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. The withdrawal provision of such Act is classified to section 416 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

AMENDMENTS

1955—Act June 16, 1955, removed the 160-acre limitation on desert entry.

ADDITIONAL DESERT-LAND ENTRY

Section 3 of act June 16, 1955, as amended by Pub. L. 85-641, § 2, Aug. 14, 1958, 72 Stat. 596, provided that: "Any person who, prior to June 16, 1955, made a valid desert-land entry on lands subject to such Act of June 22, 1910 [sections 83 to 85 of this title], or of July 17, 1914 [sections 121 to 123 of this title], may, if otherwise qualified, make one additional entry, as a personal privilege, not assignable, upon one or more tracts of desert land subject to the provisions of such Acts, as hereby amended, and section 7 of the Act entitled 'An Act to stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development to stabilize the livestock industry dependent upon the public range, and for other purposes', approved June 28, 1934, as amended (48 Stat. 1269, 1272; 43 U.S.C. 315f). The additional land entered by any person pursuant to this section shall not, together with his original entry, exceed three hundred and twenty acres, and all the tracts included within the additional entry authorized by this section shall be sufficiently close to each other to be managed satisfactorily as an economic unit, as determined under rules and regulations issued by the Secretary of the Interior. Additional entries authorized by this section shall be subject to all the requirements of the desert-land law."

SUPPLEMENTAL PROVISIONS

Section 90 of this title, act Apr. 30, 1912, ch. 99, 37 Stat. 105, supplements this section by making provisions for the selection of coal lands by the several States, and for their sale under the laws providing for the sale of isolated or disconnected tracts of public lands.

CROSS REFERENCES

Alabama, coal lands opened to agricultural entry subsequent to 1912, see section 77 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 77, 82, 84, 85, 90, 541c of this title.

§ 84. Applications for entry

Any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section four of the Act of August eighteenth, eighteen hundred and ninety-four, known as the Carey Act [43 U.S.C. 641], and the Secretary of the Interior in withdrawing under the Reclamation Act lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of sections 83 to 85 of this title.

(June 22, 1910, ch. 318, § 2, 36 Stat. 584.)

REFERENCES IN TEXT

The homestead laws, referred to in the text, are classified generally to chapter 7 (§ 161 et seq.) of Title 43, Public Lands.

The desert-land law, referred to in the text, is classified generally to chapter 9 (§ 321 et seq.) of Title 43.

The Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. The withdrawal provision of such Act is classified to section 416 of Title 43. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

SUPPLEMENTAL PROVISIONS

See note under section 83 of this title.

CROSS REFERENCES

Selection of coal lands by the several states and sale thereof under laws providing for sale of isolated or disconnected tracts of public lands, see section 90 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 77, 82, 83, 85, 90, 541c of this title.

§ 85. Patents for lands, with reservation of coal; disposal of coal deposits

Upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of sections 83 to 85 of this title, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by sections 83 to 85 of this title, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages. The owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits. Nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation.

(June 22, 1910, ch. 318, § 3, 36 Stat. 584.)

REFERENCES IN TEXT

The land laws, referred to in text, are classified generally to Title 43, Public Lands.

SUPPLEMENTAL PROVISIONS

See note under section 83 of this title.

CROSS REFERENCES

Leasing and prospecting permits for coal deposits reserved in United States, see section 182 of this title.

New or supplemental patents in case of lands subsequently classified as noncoal, see section 82 of this title.

Selection of coal lands by the several states and sale thereof under laws providing for sale of isolated or disconnected tracts of public lands, see section 90 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 77, 82, 83, 84, 90, 541c of this title.

§ 86. Disposition of lands in Indian reservations with reservation of coal; examination and appraisal of lands

In any Indian reservation opened to settlement and entry pursuant to a classification of the surplus lands therein as mineral and nonmineral, such surplus lands not otherwise reserved or disposed of, which have been or may be withdrawn or classified as coal lands or are valuable for coal deposits, shall be subject to the same disposition as is or may be prescribed by law for the nonmineral lands in such reservation whenever proper application shall be made with a view of obtaining title to such lands, with a reservation to the United States of the coal deposits therein and of the right to prospect for, mine, and remove the same. Such surplus lands, prior to any disposition hereunder, shall be examined, separated into classes the same as are the nonmineral lands in such reservations, and appraised, as to their value, exclusive of the coal deposits therein, under such rules and regulations as shall be prescribed by the Secretary of the Interior for that purpose.

(Feb. 27, 1917, ch. 133, § 1, 39 Stat. 944.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87, 88, 89 of this title.

§ 87. Statements in application; patents

Any applicant for lands mentioned in section 86 of this title shall state in his application that the same is made in accordance with and subject to the provisions and reservations of sections 86 to 89 of this title, and upon submission of satisfactory proof of full compliance with the provisions of law under which application or entry is made and of sections 86 to 89 of this title shall be entitled to a patent to the lands applied for and entered by him, which patent shall contain a reservation to the United States of all the coal deposits in the lands so patented, together with the right to prospect for, mine, and remove the same.

(Feb. 27, 1917, ch. 133, § 2, 39 Stat. 945.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 88, 89 of this title.

§ 88. Disposition of coal by United States

If the coal-land laws have been or shall be extended over lands applied for, entered, or patented hereunder the coal deposits therein shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right at all times to enter upon the lands applied for, entered, or patented under sections 86 to 89 of this title, for the purpose of prospecting for coal thereon, if such coal deposits are then subject to disposition, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such lands, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages. The owner under such limited patent shall have the right to mine coal for personal use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits. Nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications made under the applicable land laws of the United States for any such surplus lands which have been or may be classified as coal lands with a view of disproving such classification and securing a patent without reservation.

(Feb. 27, 1917, ch. 133, § 3, 39 Stat. 945.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87, 89 of this title.

§ 89. Disposition of proceeds

The net proceeds derived from the sale and entry of surplus lands in conformity with the provisions of sections 86 to 89 of this title shall be paid into the Treasury of the United States to the credit of the same fund under the same conditions and limitations as are or may be prescribed by law for the disposition of the proceeds arising from the disposal of other surplus lands in such Indian reservation. The provisions of sections 86 to 89 of this title shall not apply to the lands of the Five Civilized Tribes of Indians in Oklahoma.

(Feb. 27, 1917, ch. 133, § 4, 39 Stat. 945.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 87, 88 of this title.

§ 90. Selection of coal lands by States; sale in isolated or disconnected tracts

Unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands or are valuable for coal shall, in addition to the classes of entries or filings described in sections 83 to 85 of this title be subject to selection by the several States within whose limits the lands are situate, under grants made by Congress, and to disposition, in the discretion of the Secretary of the Interior, under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in all such lands so selected or sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of said sections, and such lands shall be subject to all the conditions and limitations of said sections.

(Apr. 30, 1912, ch. 99, 37 Stat. 105.)

SUPPLEMENTAL PROVISIONS

Act Apr. 30, 1912, is supplemental to sections 83 to 85 of this title.

CROSS REFERENCES

Leasing and prospecting permits for coal deposits reserved in United States, see section 182 of this title.

New or supplemental patents in case of lands subsequently classified as noncoal, see section 82 of this title.

SUBCHAPTER III—PETROLEUM, OTHER MINERAL OIL, OR GAS LAND ENTRIES UNDER MINING LAWS

§ 101. Omitted

CODIFICATION

Section 101, act Feb. 11, 1897, ch. 216, 29 Stat. 526, which related to entry of mineral oil lands under placer mining laws, was omitted from the Code as obsolete. See section 181 et seq. of this title.

SAVINGS PROVISIONS

Section 193 of this title contains a savings clause protecting valid claims in existence on Feb. 20, 1920.

§ 102. Assessment work on contiguous oil lands, located as claims, of same owner

Where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all, where such labor will tend to the development or to determine the oil-bearing character of such contiguous claims.

(Feb. 12, 1903, ch. 548, 32 Stat. 825.)

REFERENCES IN TEXT

Title thirty-two, chapter six, Revised Statutes of the United States, referred to in text, is classified to sections 21, 22 to 24, 26 to 28, 29, 30, 33 to 48, 50 to 52, 71 to 76 of this title and section 661 of Title 43, Public lands.

CROSS REFERENCES

Disposition of oil deposits, form and manner, see section 193 of this title.

§ 103. Patents for oil or gas lands not denied because of transfer before discovery of oil or gas; acreage limitation; nonapplication to withdraw lands

In no case shall patent be denied to or for any lands located or claimed prior to March 2, 1911, under the mining laws of the United States containing petroleum, mineral oil, or gas solely because of any transfer or assignment thereof or of any interest or interests therein by the original locator or locators, or any of them, to any qualified persons or person or corporation, prior to discovery of oil or gas therein, but if such claim is in all other respects valid and regular, patent therefor not exceeding one hundred and sixty acres in any one claim shall issue to the holder or holders thereof, as in other cases. The above provisions shall not apply where such lands were at the time of inception of development on or under such claim withdrawn from mineral entry.

(Mar. 2, 1911, ch. 201, § 1, 36 Stat. 1015.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 104 of this title.

§ 104. Agreements with applicants for patents as to disposition of oil or gas, or proceeds thereof, pending determination of title; Navy Petroleum Fund

Where applications for patents have been or may be offered for any oil or gas land included in an order of withdrawal upon which oil or gas had been discovered, or was being produced prior to March 2, 1911, or upon which drilling operations were in actual progress on October 3, 1910, and oil or gas is thereafter discovered thereon, and where there has been no final determination by the Secretary of the Interior upon such applications for patent, said Secretary, in his discretion, may enter into agreements, under such conditions as he may prescribe with such applicants for patents in possession of such land or any portions thereof, relative to the disposition of the oil or gas produced therefrom or the proceeds thereof, pending final determination of the title thereto by the Secretary of the Interior, or such other disposition of the same as may be authorized by law. Any money which may accrue to the United States under the provisions of sections 103 and 104 of this title from lands within the Naval Petroleum Reserves shall be set aside for the needs of the Navy and deposited in the Treasury to the credit of a fund to be known as the Navy Petroleum Fund, which fund shall be applied to the needs of the Navy as Congress may from time to time direct, by appropriation or otherwise.

(Mar. 2, 1911, ch. 201, § 2, as added Aug. 25, 1914, ch. 287, 38 Stat. 708.)

SUBCHAPTER IV—HOMESTEAD ENTRY OF LANDS IN UTAH, WITHDRAWN OR CLASSIFIED AS OIL LANDS

§§ 111 to 113. Repealed. Dec. 16, 1930, ch. 14, § 1, 46 Stat. 1028

Section 111, act Aug. 24, 1912, ch. 367, § 1, 37 Stat. 496, related to homestead entry of lands in Utah.

Section 112, act Aug. 24, 1912, ch. 367, § 2, 37 Stat. 496, related to required information in the application for entry.

Section 113, act Aug. 24, 1912, ch. 367, § 3, 37 Stat. 496, related to reservation of oil and gas to the United States in the lands entered.

Provisions on entry of lands withdrawn or classified as oil lands are contained in sections 121 to 123 of this title.

SUBCHAPTER V—AGRICULTURAL ENTRY OF LANDS WITHDRAWN OR CLASSIFIED AS CONTAINING PHOSPHATE, NITRATE, POTASH, OIL, GAS, ASPHALTIC MINERALS, SODIUM, OR SULPHUR

§ 121. Agricultural entry or purchase of lands withdrawn or classified as containing phosphate, nitrate, potash, oil, or gas; reservations to United States; application

Lands withdrawn or classified as phosphate, nitrate, potash, oil, gas, or asphaltic minerals, or which are valuable for those deposits, shall be subject to appropriation, location, selection, entry, or purchase, if otherwise available, under the nonmineral land laws of the United States, whenever such location, selection, entry, or purchase shall be made with a view of obtaining or passing title with a reservation to the United States of the deposits on account of which the lands were withdrawn or classified or reported as valuable, together with the right to prospect for, mine, and remove the same. All applications to locate, select, enter, or purchase under this section shall state that the same are made in accordance with and subject to the provisions and reservations of sections 121 to 123 of this title.

(July 17, 1914, ch. 142, § 1, 38 Stat. 509; June 16, 1955, ch. 145, § 2, 69 Stat. 138.)

AMENDMENTS

1955—Act June 16, 1955, removed 160 acre limitation on desert entry.

ADDITIONAL DESERT-LAND ENTRY

Increase of limitation with respect to desert entries to 320 acres, see note under section 83 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 122, 124, 125 of this title.

§ 122. Patents; reservation in the United States of reserved deposits; acquisition of right to remove deposits; application for entry to disprove classification

Upon satisfactory proof of full compliance with the provisions of the laws under which the location, selection, entry, or purchase is made, the locator, selector, entryman, or purchaser shall be entitled to a patent to the land located, selected, entered, or purchased, which patent shall contain a reservation to the United States of the deposits on account of which the lands so patented were withdrawn or classified or re-

ported as valuable, together with the right to prospect for, mine, and remove the same, such deposits to be subject to disposal by the United States only as shall be hereafter expressly directed by law: *Provided, however,* That all mineral deposits heretofore or hereafter reserved to the United States under sections 121 to 123 of this title which are subject, at the time of application for patent, to valid and subsisting rights acquired by discovery and location under the mining laws of the United States made prior to the date of the Mineral Leasing Act of February 25, 1920 [30 U.S.C. 181 et seq.], shall hereafter be subject to disposal to the holders of those valid and subsisting rights by patent under the mining laws of the United States in force at the time of such disposal. Any person qualified to acquire the reserved deposits may enter upon said lands with a view of prospecting for the same upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting, the measure of any such damage to be fixed by agreement of parties or by a court of competent jurisdiction. Any person who has acquired from the United States the title to or the right to mine and remove the reserved deposits, should the United States dispose of the mineral deposits in lands, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the minerals therefrom, and mine and remove such minerals, upon payment of damages caused thereby to the owner of the land, or upon giving a good and sufficient bond or undertaking therefor in an action instituted in any competent court to ascertain and fix said damages. Nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, select, enter, or purchase, under the land laws of the United States, lands which have been withdrawn or classified as phosphate, nitrate, potash, oil, gas, or asphaltic mineral lands, with a view of disproving such classification and securing patent without reservation, nor shall persons who have located, selected, entered, or purchased lands subsequently withdrawn, or classified as valuable for said mineral deposits, be debarred from the privilege of showing, at any time before final entry, purchase, or approval of selection or location, that the lands entered, selected, or located are in fact nonmineral in character.

(July 17, 1914, ch. 142, § 2, 38 Stat. 509; July 20, 1956, ch. 652, 70 Stat. 592.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

The mining laws of the United States, referred to in text, are classified generally to this title.

The land laws, referred to in text, are classified generally to Title 43, Public Lands.

AMENDMENTS

1956—Act July 20, 1956, permitted disposal of mineral deposits which are subject, at the time of application for patent, to valid and subsisting rights acquired by discovery and location under the mining laws made prior to Feb. 25, 1920.

LANDS IN NORTH PLATTE RECLAMATION PROJECT; MINERAL RIGHTS

Patents for lands in North Platte Reclamation Project not to contain reservations of minerals in certain cases, see section 125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 121, 124, 125 of this title.

§ 123. Persons locating lands subsequently withdrawn or classified; patents to

Any person who has, in good faith, located, selected, entered, or purchased, or any person who shall locate, select, enter, or purchase, after July 17, 1914, under the nonmineral land laws of the United States, any lands which are subsequently withdrawn, classified, or reported as being valuable for phosphate, nitrate, potash, oil, gas, or asphaltic minerals, may, upon application therefor, and making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which patent shall contain a reservation to the United States of all deposits on account of which the lands were withdrawn, classified, or reported as being valuable, together with the right to prospect for, mine, and remove the same.

(July 17, 1914, ch. 142, § 3, 38 Stat. 510.)

NORTH PLATTE RECLAMATION PROJECT; ENTRY PRIOR TO JULY 17, 1914; MINERAL RIGHTS

Patents for lands in North Platte Reclamation Project not to contain reservations of minerals in certain cases, see section 125 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 121, 122, 124, 125 of this title.

§ 124. Agricultural entry or purchase of lands withdrawn or classified as containing sodium or sulphur

Lands withdrawn, classified, or reported as valuable for sodium and/or sulphur and subject to prospecting, leasing, or development under the General Leasing Act of February 25, 1920, or Acts amendatory thereof or supplementary thereto [30 U.S.C. 181 et seq.], shall be subject to appropriation, location, selection, entry, or purchase if otherwise available in the form and manner and subject to the reservations, provisions, limitations, and conditions of the Act of Congress approved July 17, 1914 (38 Stat. L. 509; U.S.C., title 30, sec. 123); *Provided, however,* That lands lying within the geologic structure of a field, or withdrawn, classified, or reported as valuable for any of the minerals named herein and/or in any of said sections, or upon which leases or prospecting permits have been applied for or granted, for the production of any of such minerals, shall not be subject to such appropriation, location, selection, entry, or purchase unless it shall be determined by the Secretary of the Interior that such disposal

will not unreasonably interfere with operations under said sections.

(Mar. 4, 1933, ch. 278, 47 Stat. 1570.)

REFERENCES IN TEXT

The General Leasing Act of February 25, 1920, referred to in text, probably means the Mineral Leasing Act of February 25, 1920, act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

The Act of Congress approved July 17, 1914, referred to in text, is act July 17, 1914, ch. 142, 38 Stat. 509, which is classified to sections 121 to 123 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 125 of this title.

§ 125. Patents in North Platte Reclamation Project; mineral rights; subrogation

Where reclamation homestead entry was made prior to July 17, 1914, pursuant to the Act of June 17, 1902 (32 Stat. 389, 43 U.S.C. sec. 431), as supplemented, for lands in the Northport Division or the Interstate Division of the North Platte Reclamation Project, and after such entry the lands have been or are hereafter withdrawn, classified, or reported as being valuable for any of the minerals named in sections 81 and 121 to 124 of this title, the patent shall not contain a reservation of such minerals. If any such mineral deposits on account of which the lands were withdrawn, classified or reported as being valuable have been leased by the United States, such patent shall be made subject to the rights of the lessee, but the patentee shall be subrogated to the rights of the United States under the lease.

(Apr. 17, 1954, ch. 152, 68 Stat. 56.)

REFERENCES IN TEXT

The Act of June 17, 1902, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, popularly known as the Reclamation Act, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

SUBCHAPTER VI—LOCATION OF PHOSPHATE ROCK LANDS UNDER PLACER-MINING LAWS

§ 131. Omitted

CODIFICATION

Section, act Jan. 11, 1915, ch. 9, 38 Stat. 792, provided for perfection under placer mining laws of locations made in good faith prior to Jan. 11, 1915, on public lands containing deposits of phosphate rock.

SUBCHAPTER VII—PERMITS TO PROSPECT FOR CHLORIDES, SULPHATES, CARBONATES, BORATES, SILICATES, OR NITRATES OF POTASSIUM

§§ 141 to 152. Repealed. Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058

Section 141, act Oct. 2, 1917, ch. 62, § 1, 40 Stat. 297, related to permits to prospect.

Section 142, act Oct. 2, 1917, ch. 62, § 2, 40 Stat. 298, related to patents to permittees.

Section 143, act Oct. 2, 1917, ch. 62, § 3, 40 Stat. 298, related to leases to permittees for campsites.

Section 144, act Oct. 2, 1917, ch. 62, § 4, 40 Stat. 299, related to cancellation of permits.

Section 145, act Oct. 2, 1917, ch. 62, § 5, 40 Stat. 299, related to restrictions on leasehold interests.

Section 146, act Oct. 2, 1917, ch. 62, §§ 6, 7, 40 Stat. 299, related to reservations in leases.

Section 147, act Oct. 2, 1917, ch. 62, § 8, 40 Stat. 300, related to forfeitures in leases.

Section 148, act Oct. 2, 1917, ch. 62, § 9, 40 Stat. 300, related to potassium salts deposits.

Section 149, act Oct. 2, 1917, ch. 62, § 10, 40 Stat. 300, related to disposition of royalties and rentals.

Section 150, act Oct. 2, 1917, ch. 62, § 11, 40 Stat. 300, related to rules and regulations.

Section 151, act Oct. 2, 1917, ch. 62, § 12, 40 Stat. 300, related to regulations for disposition of deposits.

Section 152, act Oct. 2, 1917, ch. 62, § 13, 40 Stat. 300, related to provisions in leases for regulation of price and disposition of minerals.

SUBCHAPTER VIII—BUILDING STONE OR SALINE LAND ENTRIES UNDER PLACER-MINING LAWS

§ 161. Entry of building-stone lands; previous law unaffected

Any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims. Lands reserved for the benefit of the public schools or donated to any States shall not be subject to entry under this section. Nothing contained in this section shall be construed to repeal section 471 of title 16 relating to the establishment of national forests.

(Aug. 4, 1892, ch. 375, §§ 1, 3, 27 Stat. 348.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

CODIFICATION

First two sentences of section are from section 1 and last sentence of section is from section 3 of act Aug. 4, 1892.

CROSS REFERENCES

Placer-mineral claims, provisions, see sections 35 to 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1907.

§ 162. Entry of saline lands; limitation

All unoccupied public lands of the United States containing salt springs, or deposits of salt in any form, and chiefly valuable therefor, shall be subject to location and purchase under the provisions of the law relating to placer-mining claims. The same person shall not locate or enter more than one claim hereunder.

(Jan. 31, 1901, ch. 186, 31 Stat. 745.)

CROSS REFERENCES

Disposition of deposits of coal, phosphate, sodium, potassium, oil, oil shale, and gas, see section 193 of this title.

Lease of lands chiefly valuable for deposits of sodium compounds and other mineral salts, see section 262 of this title.

Prospecting permits giving exclusive right to prospect for chlorides, phosphates, nitrates of sodium, etc., see section 261 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 1907.

SUBCHAPTER IX—DISPOSAL OF ALABAMA LANDS AS AGRICULTURAL LANDS

§ 171. Disposal as agricultural lands

Except as otherwise provided in subchapters I to VII of chapter 3A of this title, all public lands within the State of Alabama, whether mineral or otherwise, shall be subject to disposal only as agricultural lands. All lands which had been reported to the General Land Office prior to March 3, 1883, as containing coal and iron shall first be offered at public sale.

(Mar. 3, 1883, ch. 118, 22 Stat. 487; Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437.)

CODIFICATION

Section is from act Mar. 3, 1883, which contained an additional provision relating to pending homesteads, omitted because of its temporary nature.

AMENDMENTS

1920—The exception clause was inserted at the beginning of this section because of act Feb. 25, 1920, which provided that deposits of coal, phosphate, sodium, oil, oil shale, or gas, and lands containing such deposits owned by the United States, shall be subject to disposition in the form and manner provided by such act.

TRANSFER OF FUNCTIONS

The General Land Office was abolished and its functions transferred to the Bureau of Land Management by Reorg. Plan No. 3 of 1946, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, and regulations thereunder. See note under section 1 of Title 43, Public Lands.

CROSS REFERENCES

Coal lands in Alabama opened to agricultural entry, see section 77 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 77 of this title.

§ 172. Certain Alabama lands subject to homestead entry

All lands designated as agricultural in the reclassification of the public lands of Alabama by the Secretary of the Interior under authority of Act March 27, 1906 (chapter 1347, section 1, Thirty-fourth Statutes, page 88), shall be subject to homestead entry as such.

(Mar. 27, 1906, ch. 1347, § 2, 34 Stat. 88.)

REFERENCES IN TEXT

Act March 27, 1906 (chapter 1347, section 1, Thirty-fourth Statutes, page 88), referred to in text, was not classified to the Code.

CHAPTER 3A—LEASES AND PROSPECTING PERMITS

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved.
182. Lands disposed of with reservation of deposits of coal, and so forth.
183. Cancellation of prospecting permits.
184. Limitations on leases held, owned or controlled by persons, associations or corporations.
- (a) Coal leases or permits, acreage; regulations.
- (b) Sodium leases or permits, acreage.
- (c) Phosphate leases, acreage.
- (d) Oil or gas leases, acreage, Alaska; options, semiannual statements.
- (e) Association or stockholder interests, conditions; combined interests.
- (f) Limitations on other sections; combined interests permitted for certain purposes.
- (g) Forbidden interests acquired by descent, will, judgment, or decree; permissible holding period.
- (h) Cancellation, forfeiture, or disposal of interests for violation; bona fide purchasers and other valid interests; sale by Secretary; record of proceedings.
- (i) Bona fide purchasers, conditions for obtaining dismissals.
- (j) Waiver or suspension of rights.
- (k) Unlawful trusts; forfeiture.
- (l) Rules and regulations; notice to and consultation with Attorney General; application of antitrust laws; definitions.

184a. Authorization of States to include in agreements for conservation of oil and gas resources lands acquired from United States.
185. Rights-of-way for pipelines through Federal lands.
- (a) Grant of authority.
- (b) Definitions.
- (c) Inter-agency coordination.
- (d) Width limitations.
- (e) Temporary permits.
- (f) Regulatory authority.
- (g) Pipeline safety.
- (h) Environmental protection.
- (i) Disclosure.
- (j) Technical and financial capability.
- (k) Public hearings.
- (l) Reimbursement of costs.
- (m) Bonding.
- (n) Duration of grant.
- (o) Suspension or termination of right-of-way.
- (p) Joint use of rights-of-way.
- (q) Statutes.
- (r) Common carriers.
- (s) Omitted.
- (t) Existing rights-of-way.
- (u) Limitations on export.
- (v) State standards.
- (w) Reports.
- (x) Liability.
- (y) Antitrust laws.

186. Reservation of easements or rights-of-way for working purposes; reservation of right to dispose of surface of lands; determination before offering of lease; easement periods.

Sec.
187. Assignment or subletting of leases; relinquishment of rights under leases; conditions in leases for protection of diverse interests in operation of mines, wells, and so forth; State laws not impaired.
187a. Oil or gas leases; partial assignments.
187b. Oil or gas leases; written relinquishment of rights; release of obligations.
188. Failure to comply with provisions of lease.
(a) Forfeiture.
(b) Cancellation.
(c) Reinstatement.
(d) Discretion of Secretary.
188a. Surrender of leases.
189. Rules and regulations; boundary lines; State rights unaffected; taxation.
190. Oath; requirement; form; blanks.
191. Disposition of moneys received.
192. Payment of royalties in oil or gas; sale of such oil or gas.
192a. Cancellation or modification of contracts.
192b. Application to contracts.
192c. Rules and regulations governing issuance of certain leases; disposition of receipts.
193. Disposition of deposits of coal, and so forth.
193a. Preference right of United States to purchase coal for Army and Navy; price for coal; civil actions; jurisdiction.
194. Repealed.

SUBCHAPTER II—COAL

201. Leases and exploration.
(a) Division into tracts; bidding and award; leases to public agencies; fair market value of leases; leases in National Forests; comprehensive land-use plans; notice of proposed lease offering.
(b) Exploration licenses; term; rights and conditions; violations.
201-1, 201a. Repealed.
201b. Omitted.
202. Common carriers; limitations of lease or permit.
202a. Consolidation of coal leases into logical mining unit.
(1) Approval by Secretary; public hearing; definition.
(2) Mining plan; requirements.
(3) Conditions for approval.
(4) Amendment to lease.
(5) Leases issued before date of enactment of this Act.
(6) Lessee required to form unit.
(7) Required acreage.
(8) Acreage limitations for coal leases not waived.
203. Additional contiguous lands allowed lessees.
204. Repealed.
205. Consolidation of leases.
206. Noncontiguous coal or phosphate tracts in single lease.
207. Conditions of lease.
(a) Term of lease; annual rentals; royalties; readjustment of conditions.
(b) Diligent development and continued operation; suspension of condition on payment of advance royalties.
(c) Operation and reclamation plan.
208. Permits to take coal for local domestic needs without royalty payments; corporation exclusion; area to municipalities for household use without profit.
208-1. Exploratory program for evaluation of known recoverable coal resources.
(a) Authorization; purpose.
(b) Seismic, geophysical, geochemical or stratigraphic drilling.
(c) Exploratory drilling by party not under contract to United States; confidentiality of information prior to award of lease.
(d) Availability to public of all data, information, maps, surveys; confidentiality of information purchased from commercial sources not under contract to United States prior to award of lease.
(e) Information or data from Federal departments or agencies; confidentiality of proprietary information or data; utilization of Federal departments and agencies by agreement.
(f) Publication of geological and geophysical maps and reports of lands offered for lease.
(g) Implementation plan for coal lands exploration program; development and transmittal to Congress; contents.
(h) Stratigraphic drilling; scope; statement of results.
208-2. Report to Congress on leasing and production of coal lands; contents; recommendations; report by Attorney General on competition in coal industry and effectiveness of antitrust laws.
208a. Mining coal adjacent to Alaska Railroad; purchases from two or more mines.
209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production.

SUBCHAPTER III—PHOSPHATES

211. Phosphate deposits.
(a) Authorization to lease land; terms and conditions; acreage.
(b) Prospecting permits; issuance; term; acreage; entitlement to lease.
(c) Extension of term of permit.
212. Surveys; royalties; time payable; annual rentals; term of leases; readjustment on renewals; minimum production; suspension of operation.
213. Royalties for use of deposits of silica, limestone, or other rock embraced in lease.
214. Use of surface of other public lands; acreage; forest lands exception.

SUBCHAPTER IV—OIL AND GAS

221 to 222i. Omitted.
223. Leases; amount and survey of land; term of lease; royalties and annual rental.
223a. Repealed.
224. Payments for oil or gas taken prior to application for lease.
225. Condition of lease, forfeiture for violation.
226. Lease of oil and gas lands.
(a) Authority of Secretary.
(b) Lands within known geologic structure of a producing oil or gas field; competitive bidding.
(c) Lands not within geologic structure of a producing oil or gas field; first qualified applicant.
(d) Annual rentals.
(e) Primary terms.
(f) Termination.
(g) Drainage agreements; primary term of lease, extension; report to Congress.
(h) Mining claims; suspension of running time of lease.
(i) Exchange of leases; conditions.

Sec.
(j) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage.
226–1. Expiration and extension of noncompetitive oil or gas leases.
(a) Lands not withdrawn from leasing.
(b) Known and unknown geologic structures of producing fields.
(c) Application requirement.
(d) Cooperative or unit plan leases.
226–2. Limitations for filing oil and gas contests.
226a, 226b. Repealed.
226c. Reduction of royalties under existing leases.
226d, 226e. Omitted.
227. Omitted.
228. Prospecting permits and leases to persons of lands not withdrawn; terms and conditions of; fraud of claimants.
229. Preference right to permits or leases of claimants of lands bona fide entered as agricultural land; terms and conditions.
229a. Water struck while drilling for oil and gas.
(a) Acquisition; condition in lease.
(b) Prior leases.
(c) Disposition.
(d) Revolving fund.
(e) Operations under lease not restricted.
230 to 233. Repealed.
233a. Permits or leases of certain lands in Oklahoma; retention of royalties.
234 to 236. Repealed.
236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws.
236b. Existing leases within naval petroleum reserves not affected.

SUBCHAPTER V—OIL SHALE

241. Leases of lands.
(a) Authorization; survey; terms, royalties and annual rentals; readjustments on renewals; rights of existing claimants; fraud of claimants.
(b) Offer for lease; deposits other than oil shale; questioned validity because of location; preference rights.
(c) Multiple use principle leases; native asphalt, solid and semisolid bitumen, and bituminous rock.

SUBCHAPTER VI—ALASKA OIL PROVISO

251. Leases to claimants of withdrawn lands; terms and conditions; acreage; annual rentals and royalties; fraud of claimants.

SUBCHAPTER VII—SODIUM

261. Prospecting permits; lands included; acreage.
262. Leases to permittees; survey of lands; royalties and annual rentals.
263. Permits to use or lease of nonmineral lands for camp sites, and other purposes; annual rentals; acreage.

SUBCHAPTER VIII—SULPHUR

271. Prospecting permits; lands included; acreage.
272. Leases to permittees; privileges extended to oil and gas permittees.
273. Lease of lands not covered by permits or leases; acreage; rental.
274. Lands containing coal or other minerals.
275. Laws applicable.
276. Application of subchapter to Louisiana and New Mexico only.

SUBCHAPTER IX—POTASH

Sec.
281. Prospecting permits for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium; authorization; acreage; lands affected.
282. Leases to permittees of lands showing valuable deposits; royalty.
283. Lands containing valuable deposits not covered by permits or leases; authority to lease; acreage; conditions; renewals; exemptions from rentals and royalties; suspension of operations.
284. Lands containing coal or other minerals in addition to potassium deposits; issuance of prospecting permits and leases; covenants in potassium leases.
285. Laws applicable.
286. Disposition of royalties and rents from potassium leases.
287. Extension of prospecting permits.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 48, 49, 171, 351, 505, 529, 530, 541e, 1003, 1004, 1005 of this title; title 16 sections 90c–1, 460q–5, 460v–4, 460dd–2; title 25 sections 398e, 459c, 459d; title 43 sections 315e, 1608, 1714, 1747; title 50 section 167a.

SUBCHAPTER I—GENERAL PROVISIONS

§ 181. Lands subject to disposition; persons entitled to benefits; reciprocal privileges; helium rights reserved.

Deposits of coal, phosphate, sodium, potassium, oil, oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) or gas, and lands containing such deposits owned by the United States, including those in national forests, but excluding lands acquired under the Appalachian Forest Act, approved March 1, 1911 (36 Stat. 961), and those in incorporated cities, towns, and villages and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves, except as hereinafter provided, shall be subject to disposition in the form and manner provided by this chapter to citizens of the United States, or to associations of such citizens, or to any corporation organized under the laws of the United States, or of any State or Territory thereof, or in the case of coal, oil, oil shale, or gas, to municipalities. Citizens of another country, the laws, customs, or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding, or stock control, own any interest in any lease acquired under the provisions of this chapter. The United States reserves the ownership of and the right to extract helium from all gas produced from lands leased or otherwise granted under the provisions of this chapter, under such rules and regulations as shall be prescribed by the Secretary of the Interior: *Provided further,* That in the extraction of helium from gas produced from such lands it shall be so extracted as to cause no substantial delay in the delivery of gas produced from the well to the purchaser thereof.

(Feb. 25, 1920, ch. 85, § 1, 41 Stat. 437; Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 1, 60 Stat. 950; Sept. 2, 1960, Pub. L. 86-705, § 7(a), 74 Stat. 790.)

REFERENCES IN TEXT

The Appalachian Forest Act, referred to in the first undesignated paragraph, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, also known as the "Weeks law", which is classified to sections 480, 500, 513 to 519, 521, 552 and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables volume.

AMENDMENTS

1960—Pub. L. 86-705 included deposits of native asphalt, solid and semisolid bitumen, and bituminous rock.

1946—Act Aug. 8, 1946, reenacted: existing par., less three provisos, as first sentence of first par., inserting "potassium" after "sodium", which was also included in the 1927 amendment, and substituting provision for disposition of deposits "in incorporated cities, towns, and villages, and in national parks and monuments, those acquired under other Acts subsequent to February 25, 1920, and lands within the naval petroleum and oil-shale reserves" for such disposition "in national parks, and in lands withdrawn or reserved for military or naval uses or purposes" and phrase "associations of such citizens" for "any association of such persons"; former third proviso as second sentence of first par.; former first proviso, as second par., inserting reservation of ownership provision and deleting "permitted" preceding "leased or otherwise granted"; and former second proviso as proviso in second par.

1927—Act Feb. 7, 1927, included deposits of potassium.

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94-377, § 1(a), Aug. 4, 1976, 90 Stat. 1083, provided that: "This Act [enacting sections 202a, 208-1 and 208-2 of this title, amending sections 184, 191, 201, 203, 207, 209 and 352 of this title, repealing sections 201-1 and 204 of this title, and enacting provisions set out as notes under sections 184, 201, 201-1, 203, and 204 of this title] may be cited as the 'Federal Coal Leasing Amendments Act of 1975'."

SHORT TITLE OF 1960 AMENDMENT

Section 1 of Pub. L. 86-705 provided that Pub. L. 86-705, which amended sections 181, 182, 184, 187a, 226, 226-1, 226-2, and 241 of this title, and enacted provisions set out as notes under sections 187a and 226 of this title may be cited as the "Mineral Leasing Act Revision of 1960."

SHORT TITLE

This chapter (except subchapters VIII and IX) is popularly known as the Mineral Leasing Act of 1920 and the Mineral Lands Leasing Act.

SAVINGS PROVISIONS

Provisions of Federal Land Policy and Management Act of 1976, Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, not to be construed as permitting any person to place, or allow to be placed, spent oil shale, etc., on any Federal land other than land leased for the recovery of shale oil under the act of Feb. 25, 1920, section 181 et seq. of this title, see section 701(d) of Pub. L. 94-579, set out as a Savings Provisions note under section 1701 of Title 43, Public Lands.

Section 15 of act Aug. 8, 1946, provided: "No repeal or amendment made by this Act [enacting sections 187a, 187b, and 226c, amending sections 181, 184, 188, 193, 209, 225, 226 and 285, and repealing sections 223a, 226a and 226b of this title] shall affect any right acquired under the law as it existed prior to such repeal or amendment, and such right shall be governed by the law in effect at the time of its acquisition; but any person holding a lease on the effective date of this Act [Aug. 8, 1946] may, by filing a statement to that effect, elect to have his lease governed by the applicable provisions of this Act [said sections] instead of by the law in effect prior thereto."

ADMISSION OF ALASKA AS STATE: SELECTION OF LANDS

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Selection of lands by Alaska from lands made available by Statehood provisions including lands subject to leases, permits, licenses or contracts issued under this chapter, see section 6(h) of Pub. L. 85-508, set out as note preceding section 21 of Title 48.

OUTER CONTINENTAL SHELF; MINERAL LEASES

Grant by the Secretary of the Interior of mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq., of Title 43, Public Lands.

CROSS REFERENCES

Conveyances to occupants of unpatented mining claims, reservation of mineral rights, see section 707 of this title.

Helium reserve lands, development of other mineral resources, see section 529 of this title.

Laws applicable, see sections 275 and 285 of this title.

Naval petroleum reserves, jurisdiction and control, see section 7421 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 185, 208, 275, 1004 of this title; title 10 sections 7421, 7435.

§ 182. Lands disposed of with reservation of deposits of coal, and so forth

The provisions of this chapter shall also apply to all deposits of coal, phosphate, sodium, oil, oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) or gas in the lands of the United States, which lands may have been or may be disposed of under laws reserving to the United States such deposits, with the right to prospect for, mine, and remove the same, subject to such conditions as are or may hereafter be provided by such laws reserving such deposits.

(Feb. 25, 1920, ch. 85, § 34, 41 Stat. 450; Sept. 2, 1960, Pub. L. 86-705, § 7(a), 74 Stat. 790.)

AMENDMENTS

1960—Pub. L. 86-705 included native asphalt, solid and semisolid bitumen, and bituminous rock.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 183. Cancellation of prospecting permits

The Secretary of the Interior shall reserve and may exercise the authority to cancel any prospecting permit upon failure by the permittee to exercise due diligence in the prosecution

of the prospecting work in accordance with the terms and conditions stated in the permit, and shall insert in every such permit issued under the provisions of this chapter appropriate provisions for its cancellation by him.

(Feb. 25, 1920, ch. 85, § 26, 41 Stat. 448.)

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 184. Limitations on leases held, owned or controlled by persons, associations or corporations

(a) Coal leases or permits, acreage; regulations

(1) No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation shall take, hold, own or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, coal leases, or permits on an aggregate of more than forty-six thousand and eighty acres in any one State and in no case greater than an aggregate of one hundred thousand acres in the United States: *Provided,* That any person, association, or corporation currently holding, owning, or controlling more than an aggregate of one hundred thousand acres in the United States on the date of enactment of this section shall not be required on account of this section to relinquish said leases or permits: *Provided, further,* That in no case shall such person, association, or corporation be permitted to take, hold, own, or control any further Federal coal leases or permits until such time as their holdings, ownership, or control of Federal leases or permits has been reduced below an aggregate of one hundred thousand acres within the United States.

(2) Repealed. Pub. L. 94-377, § 11(b), Aug. 4, 1976, 90 Stat. 1090

(b) Sodium leases or permits, acreage

(1) No person, association, or corporation, except as otherwise provided in this subsection, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, sodium leases or permits on an aggregate of more than five thousand one hundred and twenty acres in any one State.

(2) The Secretary may, in his discretion, where the same is necessary in order to secure the economic mining of sodium compounds leasable under this chapter, permit a person, association, or corporation to take or hold sodium leases or permits on up to fifteen thousand three hundred and sixty acres in any one State.

(c) Phosphate leases, acreage

No person, association, or corporation shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter, or otherwise, phosphate leases or permits on an aggregate of more than twenty thousand four hundred and eighty acres in the United States.

(d) Oil or gas leases, acreage, Alaska; options, semiannual statements

(1) No person, association, or corporation, except as otherwise provided in this chapter, shall take hold, own or control at one time whether acquired directly from the Secretary under this chapter, or otherwise, oil or gas leases (including options for such leases or interests therein) on land held under the provisions of this chapter exceeding in the aggregate two hundred forty-six thousand and eighty acres in any one State other than Alaska. In the case of the State of Alaska, the limit shall be three hundred thousand acres in the northern leasing district and three hundred thousand acres in the southern leasing district, and the boundary between said two districts shall be the left limit of the Tanana River from the border between the United States and Canada to the confluence of the Tanana and Yukon Rivers, and the left limit of the Yukon River from said confluence to its principal southern mouth.

(2) No person, association, or corporation shall take, hold, own, or control at one time options to acquire interests in oil or gas leases under the provisions of this chapter which involve, in the aggregate, more than two hundred thousand acres of land in any one State other than Alaska, or, in the case of Alaska, more than two hundred thousand acres in each of its two leasing districts, as hereinbefore described. No option to acquire any interest in such an oil or gas lease shall be enforcible if entered into for a period of more than three years (which three years shall be inclusive of any renewal period if a right to renew is reserved by any party to the option) without the prior approval of the Secretary. In any case in which an option to acquire the optionor's entire interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be charged both to the optionor and to the optionee, but the charge to the optionor shall cease when the option is exercised. In any case in which an option to acquire a part of the optionor's interest in the whole or a part of the acreage under a lease is entered into, the acreage to which the option is applicable shall be fully charged to the optionor and a share thereof shall also be charged to the optionee, as his interest may appear, but after the option is exercised said acreage shall be charged to the parties pro rata as their interests may appear. In any case in which an assignment is made of a part of a lessee's interest in the whole or part of the acreage under a lease or an application for a lease, the acreage shall be charged to the parties pro rata as their interests may appear. No option or renewal thereof shall be enforcible until notice thereof has been filed with the Secretary or an officer or employee of the Department of the Interior designated by him to receive the same. Each such notice shall include, in addition to any other matters prescribed by the Secretary, the names and addresses of the parties thereto, the serial number of the lease or application for a lease to which the option is applicable, and a statement of the number of acres covered thereby and of the interests and obligations of the parties thereto and shall be subscribed by

all parties to the option or their duly authorized agents. An option which has not been exercised shall remain charged as hereinbefore provided until notice of its relinquishment or surrender has been filed, by either party, with the Secretary or any officer or employee of the Department of the Interior designated by him to receive the same. In addition, each holder of any such option shall file with the Secretary or an officer or employee of the Department of the Interior as aforesaid within ninety days after the 30th day of June and the 31st day of December in each year a statement showing, in addition to any other matters prescribed by the Secretary, his name, the name and address of each grantor of an option held by him, the serial number of every lease or application for a lease to which such an option is applicable, the number of acres covered by each such option, the total acreage in each State to which such options are applicable, and his interest and obligation under each such option. The failure of the holder of an option so to file shall render the option unenforcible by him. The unenforcibility of any option under the provisions of this paragraph shall not diminish the number of acres deemed to be held under option by any person, association, or corporation in computing the amount chargeable under the first sentence of this paragraph and shall not relieve any party thereto of any liability to cancellation, forfeiture, forced disposition, or other sanction provided by law. The Secretary may prescribe forms on which the notice and statements required by this paragraph shall be made.

(e) Association or stockholder interests, conditions; combined interests

(1) No person, association, or corporation shall take, hold, own or control at one time any interest as a member of an association or as a stockholder in a corporation holding a lease, option, or permit under the provisions of this chapter which, together with the area embraced in any direct holding, ownership or control by him of such a lease, option, or permit or any other interest which he may have as a member of other associations or as a stockholder in other corporations holding, owning or controlling such leases, options, or permits for any kind of minerals, exceeds in the aggregate an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee, optionee, or permittee under this chapter, except that no person shall be charged with his pro rata share of any acreage holdings of any association or corporation unless he is the beneficial owner of more than 10 per centum of the stock or other instruments of ownership or control of such association or corporation, and except that within three years after September 2, 1960 no valid option in existence prior to September 2, 1960 held by a corporation or association on September 2, 1960 shall be chargeable to any stockholder of such corporation or to a member of such association so long as said option shall be so held by such corporation or association under the provisions of this chapter.

(2) No contract for development and operation of any lands leased under this chapter, whether or not coupled with an interest in such lease, and no lease held, owned, or controlled in common by two or more persons, associations, or corporations shall be deemed to create a separate association under the preceding paragraph of this subsection between or among the contracting parties or those who hold, own or control the lease in common, but the proportionate interest of each such party shall be charged against the total acreage permitted to be held, owned or controlled by such party under this chapter. The total acreage so held, owned, or controlled in common by two or more parties shall not exceed, in the aggregate, an amount equivalent to the maximum number of acres of the respective kinds of minerals allowed to any one lessee, optionee, or permittee under this chapter.

(f) Limitations on other sections; combined interests permitted for certain purposes

Nothing contained in subsection (e) of this section shall be construed (i) to limit sections 227, 228, 251 of this title or (ii), subject to the approval of the Secretary, to prevent any number of lessees under this chapter from combining their several interests so far as may be necessary for the purpose of constructing and carrying on the business of a refinery or of establishing and constructing, as a common carrier, a pipeline or railroad to be operated and used by them jointly in the transportation of oil from their several wells or from the wells of other lessees under this chapter or in the transportation of coal or (iii) to increase the acreage which may be taken, held, owned, or controlled under this section.

(g) Forbidden interests acquired by descent, will, judgment, or decree; permissible holding period

Any ownership or interest otherwise forbidden in this chapter which may be acquired by descent, will, judgment, or decree may be held for two years after its acquisition and no longer.

(h) Cancellation, forfeiture, or disposal of interests for violation; bona fide purchasers and other valid interests; sale by Secretary; record of proceedings

(1) If any interest in any lease is owned, or controlled, directly or indirectly, by means of stock or otherwise, in violation of any of the provisions of this chapter, the lease may be canceled, or the interest so owned may be forfeited, or the person so owning or controlling the interest may be compelled to dispose of the interest, in any appropriate proceeding instituted by the Attorney General. Such a proceeding shall be instituted in the United States district court for the district in which the leased property or some part thereof is located or in which the defendant may be found.

(2) The right to cancel or forfeit for violation of any of the provisions of this chapter shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease, interest in a lease, option to acquire a lease or an interest therein, or permit which lease, interest, option, or permit was acquired and is held by a qualified person, association, or corporation in conformity with those provisions, even though the holdings of the person, association, or corporation from which the lease, interest, option, or permit was acquired, or of his

predecessor in title (including the original lessee of the United States) may have been canceled or forfeited or may be or may have been subject to cancellation or forfeiture for any such violation. If, in any such proceeding, an underlying lease, interest, option, or permit is canceled or forfeited to the Government and there are valid interests therein or valid options to acquire the lease or an interest therein which are not subject to cancellation, forfeiture, or compulsory disposition, the underlying lease, interest, option, or permit shall be sold by the Secretary to the highest responsible qualified bidder by competitive bidding under general regulations subject to all outstanding valid interests therein and valid options pertaining thereto. Likewise if, in any such proceeding, less than the whole interest in a lease, interest, option, or permit is canceled or forfeited to the Government, the partial interests so canceled or forfeited shall be sold by the Secretary to the highest responsible qualified bidder by competitive bidding under general regulations. If competitive bidding fails to produce a satisfactory offer the Secretary may, in either of these cases, sell the interest in question by such other method as he deems appropriate on terms not less favorable to the Government than those of the best competitive bid received.

(3) The commencement and conclusion of every proceeding under this subsection shall be promptly noted on the appropriate public records of the Bureau of Land Management.

(i) Bona fide purchasers, conditions for obtaining dismissals

Effective September 21, 1959, any person, association, or corporation who is a party to any proceeding with respect to a violation of any provision of this chapter, whether initiated prior to said date or thereafter, shall have the right to be dismissed promptly as such a party upon showing that he holds and acquired as a bona fide purchaser the interest involving him as such a party without violating any provisions of this chapter. No hearing upon any such showing shall be required unless the Secretary presents prima facie evidence indicating a possible violation of this chapter on the part of the alleged bona fide purchaser.

(j) Waiver or suspension of rights

If during any such proceeding, a party thereto files with the Secretary a waiver of his rights under his lease (including particularly, where applicable, rights to drill and to assign) or if such rights are suspended by the Secretary pending a decision in the proceeding, whether initiated prior to enactment of this chapter or thereafter, payment of rentals and running of time against the term of the lease or leases involved shall be suspended as of the first day of the month following the filing of the waiver or suspension of the rights until the first day of the month following the final decision in the proceeding or the revocation of the waiver or suspension.

(k) Unlawful trusts; forfeiture

Except as otherwise provided in this chapter, if any lands or deposits subject to the provisions of this chapter shall be subleased, trusteed, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever, so that they form a part of or are in any wise controlled by any combination in the form of any unlawful trust, with the consent of the lessee, optionee, or permittee, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, phosphate, oil, oil shale, native asphalt, solid and semisolid bitumen, bituminous rock, gas, or sodium entered into by the lessee, optionee, or permittee or any agreement or understanding, written, verbal, or otherwise, to which such lessee, optionee, or permittee shall be a party, of which his or its output is to be or become the subject, to control the price or prices thereof or of any holding of such lands by any individual, partnership, association, corporation, or control in excess of the amounts of lands provided in this chapter, the lease, option, or permit shall be forfeited by appropriate court proceedings.

(l) Rules and regulations; notice to and consultation with Attorney General; application of antitrust laws; definitions

(1) At each stage in the formulation and promulgation of rules and regulations concerning coal leasing pursuant to this chapter, and at each stage in the issuance, renewal, and readjustment of coal leases under this chapter, the Secretary of the Interior shall consult with and give due consideration to the views and advice of the Attorney General of the United States.

(2) No coal lease may be issued, renewed, or readjusted under this chapter until at least thirty days after the Secretary of the Interior notifies the Attorney General of the proposed issuance, renewal, or readjustment. Such notification shall contain such information as the Attorney General may require in order to advise the Secretary of the Interior as to whether such lease would create or maintain a situation inconsistent with the antitrust laws. If the Attorney General advises the Secretary of the Interior that a lease would create or maintain such a situation, the Secretary of the Interior may not issue such lease, nor may he renew or readjust such lease for a period not to exceed one year, as the case may be, unless he thereafter conducts a public hearing on the record in accordance with subchapter II of chapter 5 of title 5 and finds therein that such issuance, renewal, or readjustment is necessary to effectuate the purposes of this chapter, that it is consistent with the public interest, and that there are no reasonable alternatives consistent with this chapter, the antitrust laws, and the public interest.

(3) Nothing in this chapter shall be deemed to convey to any person, association, corporation, or other business organization immunity from civil or criminal liability, or to create defenses to actions, under any antitrust law.

(4) As used in this subsection, the term "antitrust law" means—

(A) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies",, approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(B) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(C) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(D) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; or

(E) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(Feb. 25, 1920, ch. 85, § 27, 41 Stat. 448; Apr. 30, 1926, ch. 197, 44 Stat. 373; July 3, 1930, ch. 854, § 1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1524; Aug. 8, 1946, ch. 916, § 6, 60 Stat. 954; June 1, 1948, ch. 365, 62 Stat. 285; June 3, 1948, ch. 379, § 6, 62 Stat. 291; Aug. 2, 1954, ch. 650, 68 Stat. 648; Aug. 13, 1957, Pub. L. 85-122, 71 Stat. 341; Aug. 21, 1958, Pub. L. 85-698, 72 Stat. 688; Sept. 21, 1959, Pub. L. 86-294, § 1, 73 Stat. 571; Mar. 18, 1960, Pub. L. 86-391, § 1(c), 74 Stat. 8; Sept. 2, 1960, Pub. L. 86-705, § 3, 74 Stat. 785; Aug. 31, 1964, Pub. L. 88-526, § 1, 78 Stat. 710; Aug. 31, 1964, Pub. L. 88-548, 78 Stat. 754; Aug. 4, 1976, Pub. L. 94-377, §§ 11, 15, 90 Stat. 1090, 1091.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (a)(1), probably means the date of enactment of Pub. L. 94-377, which was Aug. 4, 1976.

The Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890, as amended, referred to in subsec. (*l*)(4)(A), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, known as the Sherman Act, which is classified to sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables volume.

The Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914, as amended, referred to in subsec. (*l*)(4)(B), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, known as the Clayton Act, and is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables volume.

The Federal Trade Commission Act, referred to in subsec. (*l*)(4)(C), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables volume.

The Act of June 19, 1936, chapter 592, referred to in subsec. (*l*)(4)(E), is act June 19, 1936, ch. 592, 49 Stat. 1526, known as the Robinson-Patman Anti-discrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables volume.

CODIFICATION

"Subchapter II of chapter 5 of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-377, § 11(a), added "or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or coroporation" preceding "shall take, hold, own or control", "and in no case greater than an aggregate of one hundred thousand acres in the United States" following "in any one State," the proviso relating to the non-relinquishment of leases or permits by an entity owning or controlling more than an aggregate of one hundred thousand acres, and the proviso prohibiting the ownership or control of further Federal leases or permits until reduction to below an aggregate of one hundred thousand acres.

Subsec. (a)(2). Pub. L. 94-377, § 11(b), struck out subsec. (a)(2) providing for application, hearing and granting of additional acreage, not to exceed 5120 acres in any one State, to a person, association or corporation requiring such extra acreage to carry on business economically, and the subsequent reevaluation of such entity's continuing need for such extra acreage.

Subsec. (*l*). Pub. L. 94-377, § 15, added subsec. (*l*).

1964—Subsec. (a)(1). Pub. L. 88-526 deleted ", except as otherwise provided in this subsection," following "corporation" and increased the aggregate number of acres from 10,240 to 46,080 acres.

Subsec. (c). Pub. L. 88-548 increased the aggregate number of acres from 10,240 to 20,480 acres.

1960—Pub. L. 86-705 generally revised the provisions and divided them into subsecs. (a) to (k). Other changes concerned: maximum acreage in Alaska, unreported options, their unenforceability, form for notice of options, party to give notice, inclusion of options in acreage determinations, charge of association or corporate holdings against principal stockholders, hearings requirement based upon prima facie evidence of violations, running of time against a lease and the payment of rentals during a waiver or suspension of a lessee's rights.

Pub. L. 86-391 authorized issuance of phosphate permits.

1959—Pub. L. 86-294 provided that: the right of cancellation or forfeiture for violations shall not apply so as to affect adversely the interest of a bona fide purchaser in a lease acquired in conformity with acreage limitations; that bona fide purchasers in such situations have right to be dismissed as parties from proceedings; and that if a party to proceedings files waiver of rights to drill or assigns his interests, or if such rights are suspended pending decision, he shall, if he is not in violation of provisions, have the right to have his interest extended for a period of time equal to the period between filing of waiver or order of suspension and final decision, without payment of rental.

1958—Pub. L. 85-698 increased the limitation on the acreage which may be taken or held under coal leases or permits in any one State from 5,120 to 10,240 acres, permitted applications for additional coal leases or permits not exceeding 5,120 additional acres in the State, provided for hearings on such applications, authorized reevaluation and cancellation of leases and permits for additional acreage, and prohibited assignment, transfer, or sale of any of the additional acreage without the Secretary's approval.

1957—Pub. L. 85-122 deleted from the second sentence the words "or permits exceeding in the aggregate five thousand one hundred and twenty acres in any one State, and" following the words "phosphate leases".

1954—Act Aug. 2, 1954, increased the acreage that any one person can hold in the aggregate from fifteen thousand three hundred and sixty acres to forty-six thousand and eighty acres, increased the number of acres that can be held under option from one hundred thousand acres to two hundred thousand acres, and extended the terms of the option from 2 to 3 years.

1948—Act June 1, 1948, substituted in the second proviso of section "within two years after the passage of this Act" for "on or before August 8, 1950" in order to allow options to be exercised up to that time.

Act June 3, 1948, increased the aggregate acreage allowed one person, etc., from two thousand five hundred and sixty acres to five thousand one hundred and twenty acres of coal or sodium leases, and increased the aggregate acreage allowed one person, etc., from seven thousand six hundred and eighty acres to fif-

teen thousand three hundred and sixty acres of oil or gas leases.

1946—Act Aug. 8, 1946, principally doubled the amount of land that may be leased by any person or corporation in any one State and abolished the former acreage limitation of 2,560 acres on one structure; excluded operating contracts and leases held in common from the definition of "association"; inserted the provisions relating to options; and omitted the provisions relating to cooperative or unit plans and operating, drilling or development contracts.

1931—Act Mar. 4, 1931, amended section generally.

1930—Act July 3, 1930, amended section generally.

1926—Act Apr. 30, 1926, amended section generally.

EFFECTIVE DATE OF 1959 AMENDMENT

Section 2 of Pub. L. 86-294 provided that: "The rights granted by the second and third sentences of the amendment contained within section 1 of this Act [which amended this section to provide that holder of interest in lease has right to be dismissed from cancellation or forfeiture proceedings upon showing he acquired his interest as bona fide purchaser and without violation of provisions, and to provide right to have his lease extended if rights thereunder to drill and to assign are suspended or waived during such proceedings and it is determined he is not in violation of provisions] shall apply with respect to any proceeding now pending or initiated after the date of enactment of this Act [Sept. 21, 1959]."

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

Section 11(b) of Pub. L. 94-377 provided in part that repeal by such section of subsec. (a)(2) of this section is subject to valid existing rights.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

LAWS applicable, see sections 275 and 285 of this title.

States authorized to consent to operation and development of lands acquired from United States under agreements for conservation of oil and gas resources, see section 184a of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 202a, 236a, 275, 285 of this title; title 10 sections 7421, 7435.

§ 184a. Authorization of States to include in agreements for conservation of oil and gas resources lands acquired from United States

Notwithstanding the provisions of any applicable grant, deed, patent, exchange, or law of the United States, any State owning lands or interests therein acquired by it from the United States may consent to the operation or development of such lands or interests, or any part thereof, under agreements approved by the Secretary of the Interior made jointly or severally with lessees or permittees of lands or mineral deposits of the United States or others, for the purpose of more properly conserving the oil and gas resources within such State. Such agreements may provide for the cooperative or unit operation or development of part or all of any oil or gas pool, field, or area; for the allocation of production and the sharing of proceeds from the whole or any specified part thereof regardless of the particular tract from which production is obtained or proceeds are derived; and, with the consent of the State, for the modification of the terms and provisions of State leases for lands operated and developed thereunder, including the term of years for which said leases were originally granted, to conform said leases to the terms and provisions of such agreements: *Provided*, That nothing in this section contained, nor the effectuation of it, shall be construed as in any respect waiving, determining or affecting any right, title, or interest, which otherwise may exist in the United States, and that the making of any agreement, as provided in this section, shall not be construed as an admission as to the title or ownership of the lands included.

(Jan. 26, 1940, ch. 14, 54 Stat. 17.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapter I to VII of this chapter.

§ 185. Rights-of-way for pipelines through Federal lands

(a) Grant of authority

Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 181 of this title in accordance with the provisions of this section.

(b) Definitions

(1) For the purposes of this section "Federal lands" means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head determines that it would be inconsistent with the purposes of the reservation.

(2) "Secretary" means the Secretary of the Interior.

(3) "Agency head" means the head of any Federal department or independent Federal office or agency, other than the Secretary of the Interior, which has jurisdiction over Federal lands.

(c) Inter-agency coordination

(1) Where the surface of all of the Federal lands involved in a proposed right-of-way or permit is under the jurisdiction of one Federal agency, the agency head, rather than the Secretary, is authorized to grant or renew the right-of-way or permit for the purposes set forth in this section.

(2) Where the surface of the Federal lands involved is administered by the Secretary or by two or more Federal agencies, the Secretary is authorized, after consultation with the agencies involved, to grant or renew rights-of-way or permits through the Federal lands involved. The Secretary may enter into interagency agreements with all other Federal agencies

having jurisdiction over Federal lands for the purpose of avoiding duplication, assigning responsibility, expediting review of rights-of-way or permit applications, issuing joint regulations, and assuring a decision based upon a comprehensive review of all factors involved in any right-of-way or permit application. Each agency head shall administer and enforce the provisions of this section, appropriate regulations, and the terms and conditions of rights-of-way or permits insofar as they involve Federal lands under the agency head's jurisdiction.

(d) Width limitations

The width of a right-of-way shall not exceed fifty feet plus the ground occupied by the pipeline (that is, the pipe and its related facilities) unless the Secretary or agency head finds, and records the reasons for his finding, that in his judgment a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, roads, airstrips and campsites and they need not necessarily be connected or contiguous to the pipe and may be the subjects of separate rights-of-way.

(e) Temporary permits

A right-of-way may be supplemented by such temporary permits for the use of Federal lands in the vicinity of the pipeline as the Secretary or agency head finds are necessary in connection with construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

(f) Regulatory authority

Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance use and termination.

(g) Pipeline safety

The Secretary or agency head shall impose requirements for the operation of the pipeline and related facilities in a manner that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline.

(h) Environmental protection

(1) Nothing in this section shall be construed to amend, repeal, modify, or change in any way the requirements of section 102(2)(C) [42 U.S.C. 4332(2)(C)] or any other provision of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.].

(2) The Secretary or agency head, prior to granting a right-of-way or permit pursuant to this section for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way or permit which shall comply with this section. The Secretary or agency head shall issue regulations or impose stipulations which shall include, but shall not be limited to: (A) requirements for restoration, revegetation, and curtailment of erosion of the surface of the land; (B) requirements to insure that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards nor related facility siting standards established by or pursuant to law; (C) requirements designed to control or prevent (i) damage to the environment (including damage to fish and wildlife habitat), (ii) damage to public or private property, and (iii) hazards to public health and safety; and (D) requirements to protect the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be applicable to every right-of-way or permit granted pursuant to this section, and may be made applicable by the Secretary or agency head to existing rights-of-way or permits, or rights-of-way or permits to be renewed pursuant to this section.

(i) Disclosure

If the applicant is a partnership, corporation, association, or other business entity, the Secretary or agency head shall require the applicant to disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(j) Technical and financial capability

The Secretary or agency head shall grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain, and terminate the project for which the right-of-way or permit is requested in accordance with the requirements of this section.

(k) Public hearings

The Secretary or agency head by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local government agencies and the public adequate notice and an opportunity to comment upon right-of-way applications filed after the date of enactment of this subsection.

(l) Reimbursement of costs

The applicant for a right-of-way or permit shall reimburse the United States for administrative and other costs incurred in processing the application, and the holder of a right-of-way or permit shall reimburse the United States for the costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities

on such right-of-way or permit area and shall pay annually in advance the fair market rental value of the right-of-way or permit, as determined by the Secretary or agency head.

(m) Bonding

Where he deems it appropriate the Secretary or agency head may require a holder of a right-of-way or permit to furnish a bond, or other security, satisfactory to the Secretary or agency head to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation of the Secretary or agency head.

(n) Duration of grant

Each right-of-way or permit granted or renewed pursuant to this section shall be limited to a reasonable term in light of all circumstances concerning the project, but in no event more than thirty years. In determining the duration of a right-of-way the Secretary or agency head shall, among other things, take into consideration the cost of the facility, its useful life, and any public purpose it serves. The Secretary or agency head shall renew any right-of-way, in accordance with the provisions of this section, so long as the project is in commercial operation and is operated and maintained in accordance with all of the provisions of this section.

(o) Suspension or termination of right-of-way

(1) Abandonment of a right-of-way or noncompliance with any provision of this section may be grounds for suspension or termination of the right-of-way if (A) after due notice to the holder of the right-of-way, (B) a reasonable opportunity to comply with this section, and (C) an appropriate administrative proceeding pursuant to section 554 of title 5, the Secretary or agency head determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed upon condition, event, or time.

(2) If the Secretary or agency head determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding.

(3) Deliberate failure of the holder to use the right-of-way for the purpose for which it was granted or renewed for any continuous two-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided,* That where the failure to use the right-of-way is due to circumstances not within the holder's control the Secretary or agency head is not required to commence proceedings to suspend or terminate the right-of-way.

(p) Joint use of rights-of-way

In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across Federal lands, the utilization of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary or agency head the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit area granted pursuant to this section.

(q) Statutes

No rights-of-way for the purposes provided for in this section shall be granted or renewed across Federal lands except under and subject to the provisions, limitations, and conditions of this section. Any application for a right-of-way filed under any other law prior to the effective date of this provision may, at the applicant's option, be considered as an application under this section. The Secretary or agency head may require the applicant to submit any additional information he deems necessary to comply with the requirements of this section.

(r) Common carriers

(1) Pipelines and related facilities authorized under this section shall be constructed, operated, and maintained as common carriers.

(2)(A) The owners or operators of pipelines subject to this section shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(B) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipeline, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(A) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act [15 U.S.C. 717 et seq.] or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(B) Where natural gas not subject to State regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Government shall in express terms reserve and shall provide in every lease of oil lands under this chapter that the lessee, assignee, or beneficiary, if owner or operator of a controlling interest in any pipeline or of any company operating the pipeline which may be operated accessible to the oil derived from lands under such lease, shall at reasonable rates and without discrimination accept and convey the oil of the Government or of any citizen or company not the owner of any pipeline operating a lease or purchasing gas or oil under the provisions of this chapter.

(5) Whenever the Secretary has reason to believe that any owner or operator subject to this section is not operating any oil or gas pipeline in complete accord with its obligations as a common carrier hereunder, he may request the Attorney General to prosecute an appropriate proceeding before the Interstate Commerce Commission or Federal Power Commission or any appropriate State agency or the United States district court for the district in which the pipeline or any part thereof is located, to enforce such obligation or to impose any penalty provided therefor, or the Secretary may, by

proceeding as provided in this section, suspend or terminate the said grant of right-of-way for noncompliance with the provisions of this section.

(6) The Secretary or agency head shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other information or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (A) conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (B) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (C) minimum shipment or purchase tenders.

(s) Omitted

(t) Existing rights-of-way

The Secretary or agency head may ratify and confirm any right-of-way or permit for an oil or gas pipeline or related facility that was granted under any provision of law before the effective date of this subsection, if it is modified by mutual agreement to comply to the extent practical with the provisions of this section. Any action taken by the Secretary or agency head pursuant to this subsection shall not be considered a major Federal action requiring a detailed statement pursuant to section 102(2)(C) [42 U.S.C. 4332(2)(C)] of the National Environmental Policy Act of 1970 (Public Law 90-190; 42 U.S.C. 4321).

(u) Limitations on export

Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to this section, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitations and licensing requirements of the Export Administration Act of 1969 (Act of December 30, 1969; 83 Stat. 841) [50 App., U.S.C. 2401 et seq.] and, in addition, before any crude oil subject to this section may be exported under the limitations and licensing requirements and penalty and enforcement provisions of the Export Administration Act of 1969 the President must make and publish an express finding that such exports will not diminish the total quantity or quality of petroleum available to the United States, and are in the national interest and are in accord with the provisions of the Export Administration Act of 1969: *Provided*, That the President shall submit reports to the Congress containing findings made under this section, and after the date of receipt of such report Congress shall have a period of sixty calendar days, thirty days of which Congress must have been in session, to consider whether exports under the terms of this section are in the national interest. If the Congress within this time period passes a concurrent resolution of disapproval stating disagreement with the President's finding concerning the national interest, further exports made pursuant to the aforementioned Presidential findings shall cease.

(v) State standards

The Secretary or agency head shall take into consideration and to the extent practical comply with State standards for right-of-way construction, operation, and maintenance.

(w) Reports

(1) The Secretary and other appropriate agency heads shall report to the House and Senate Committees on Interior and Insular Affairs annually on the administration of this section and on the safety and environmental requirements imposed pursuant thereto.

(2) The Secretary or agency head shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for a pipeline twenty-four inches or more in diameter, and no right-of-way for such a pipeline shall be granted until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way, together with the Secretary's or agency head's detailed findings as to terms and conditions he proposes to impose, has been submitted to such committees, unless each committee by resolution waives the waiting period.

(3) Periodically, but at least once a year, the Secretary of the Department of Transportation shall cause the examination of all pipelines and associated facilities on Federal lands and shall cause the prompt reporting of any potential leaks or safety problems.

(4) The Secretary of the Department of Transportation shall report annually to the President, the Congress, the Secretary of the Interior, and the Interstate Commerce Commission any potential dangers of or actual explosions, or potential or actual spillage on Federal lands and shall include in such report a statement of corrective action taken to prevent such explosion or spillage.

(x) Liability

(1) The Secretary or agency head shall promulgate regulations and may impose stipulations specifying the extent to which holders of rights-of-way and permits under this chapter shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(y) Antitrust laws

The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal antitrust laws.

(Feb. 25, 1920, ch. 85, § 28, 41 Stat. 449; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 678; Aug. 12, 1953, ch. 408, 67 Stat. 557; Nov. 16, 1973, Pub. L. 93-153, title I, § 101, 87 Stat. 576.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (h)(1), is Pub. L. 91-190, Jan 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables volume.

The date of enactment of this subsection, referred to in subsec. (k), the effective date of this provision, referred to in subsec. (q), and the effective date of this subsection, referred to in subsec. (t), probably mean the date of approval of Pub. L. 93-153, which was Nov. 16, 1973.

The federal antitrust laws, referred to in subsec. (y), are classified generally to section 1 et seq. of Title 15, Commerce and Trade.

The Natural Gas Act, referred to in subsec. (r)(3)(A), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables volume.

The Export Administration Act of 1969, referred to in subsec. (u), is Pub. L. 91-184, Dec. 30, 1969, 83 Stat. 841, as amended, which is classified generally to section 2401 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 2401 of Title 50, App., and Tables volume.

CODIFICATION

Subsec. (s), which provided that the Secretary, in consultation with Federal and State agencies, review the need for a national system of transportation and utility corridors across Federal lands and report to Congress and to the President by July 1, 1975, was omitted from the Code as executed.

AMENDMENTS

1973—Pub. L. 93-153 completely rewrote the section substituting 25 subsecs. lettered (a) through (y) covering all aspects of the granting of rights-of-way for pipelines through Federal lands for the former single unlettered paragraph under which rights-of-way of 25 feet on each side of the pipeline could be granted and under which the pipeline was to be operated as a common carrier.

1953—Act Aug. 12, 1953, permitted companies subject to Federal regulation, or public utilities subject to State regulations, to pass through the public domain without incurring the obligation to become a common carrier.

1935—Act Aug. 21, 1935, substituted "may be granted by the Secretary of the Interior" for "are granted" and inserted "and conditions" following "regulations" in two instances, and "and shall accept, convey, transport, or purchase without discrimination, oil or natural gas produced from Government lands in the vicinity of the pipe line in such proportionate amounts as the Secretary of the Interior may, after a full hearing with notice thereof to the interested parties and a proper finding of facts, determine to be reasonable:" following "and maintained as common carriers.".

CHANGE OF NAME

The Committee on Interior and Insular Affairs of the Senate was abolished and replaced by the Committee on Energy and Natural Resources of the Senate, Effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

OUTER CONTINENTAL SHELF; PIPELINE RIGHTS-OF-WAY

Pipeline rights-of-way in connection with oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1334 of Title 43, Public Lands.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 236a, 275, 285 of this title; title 10 sections 7421, 7435; title 33 section 1522; title 42 section 6271; title 43 sections 1652, 1768.

§ 186. Reservation of easements or rights-of-way for working purposes; reservation of right to dispose of surface of lands; determination before offering of lease; easement periods

Any permit, lease, occupation, or use permitted under this chapter shall reserve to the Secretary of the Interior the right to permit upon such terms as he may determine to be just, for joint or several use, such easements or rights-of-way, including easements in tunnels upon, through, or in the lands leased, occupied, or used as may be necessary or appropriate to the working of the same, or of other lands containing the deposits described in this chapter, and the treatment and shipment of the products thereof by or under authority of the Government, its lessees, or permittees, and for other public purposes. The Secretary of the Interior, in his discretion, in making any lease under this chapter, may reserve to the United States the right to lease, sell, or otherwise dispose of the surface of the lands embraced within such lease under existing law or laws hereafter enacted,

insofar as said surface is not necessary for use of the lessee in extracting and removing the deposits therein. If such reservation is made it shall be so determined before the offering of such lease. The said Secretary, during the life of the lease, is authorized to issue such permits for easements herein provided to be reserved.

(Feb. 25, 1920, ch. 85, § 29, 41 Stat. 449.)

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 187. Assignment or subletting of leases; relinquishment of rights under leases; conditions in leases for protection of diverse interests in operation of mines, wells, and so forth; State laws not impaired

No lease issued under the authority of this chapter shall be assigned or sublet, except with the consent of the Secretary of the Interior. The lessee may, in the discretion of the Secretary of the Interior, be permitted at any time to make written relinquishment of all rights under such a lease, and upon acceptance thereof be thereby relieved of all future obligations under said lease, and may with like consent surrender any legal subdivision of the area included within the lease. Each lease shall contain provisions for the purpose of insuring the exercise of reasonable diligence, skill, and care in the operation of said property; a provision that such rules for the safety and welfare of the miners and for the prevention of undue waste as may be prescribed by said Secretary shall be observed, including a restriction of the workday to not exceeding eight hours in any one day for underground workers except in cases of emergency; provisions prohibiting the employment of any boy under the age of sixteen or the employment of any girl or woman, without regard to age, in any mine below the surface; provisions securing the workmen complete freedom of purchase; provision requiring the payment of wages at least twice a month in lawful money of the United States, and providing proper rules and regulations to insure the fair and just weighing or measurement of the coal mined by each miner, and such other provisions as he may deem necessary to insure the sale of the production of such leased lands to the United States and to the public at reasonable prices, for the protection of the interests of the United States, for the prevention of monopoly, and for the safeguarding of the public welfare. None of such provisions shall be in conflict with the laws of the State in which the leased property is situated.

(Feb. 25, 1920, ch. 85, § 30, 41 Stat. 449.)

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 187a, 187b, 275, 285 of this title; title 10 sections 7421, 7435.

§ 187a. Oil or gas leases; partial assignments

Notwithstanding anything to the contrary in section 187 of this title, any oil or gas lease issued under the authority of this chapter may be assigned or subleased, as to all or part of the acreage included therein, subject to final approval by the Secretary and as to either a divided or undivided interest therein, to any person or persons qualified to own a lease under this chapter, and any assignment or sublease shall take effect as of the first day of the lease month following the date of filing in the proper land office of three original executed counterparts thereof, together with any required bond and proof of the qualification under this chapter of the assignee or sublessee to take or hold such lease or interest therein. Until such approval, however, the assignor or sublessor and his surety shall continue to be responsible for the performance of any and all obligations as if no assignment or sublease had been executed. The Secretary shall disapprove the assignment or sublease only for lack of qualification of the assignee or sublessee or for lack of sufficient bond: *Provided, however,* That the Secretary may, in his discretion, disapprove an assignment of a separate zone or deposit under any lease, or of a part of a legal subdivision. Upon approval of any assignment or sublease, the assignee or sublessee shall be bound by the terms of the lease to the same extent as if such assignee or sublessee were the original lessee, any conditions in the assignment or sublease to the contrary notwithstanding. Any partial assignment of any lease shall segregate the assigned and retained portions thereof, and as above provided, release and discharge the assignor from all obligations thereafter accruing with respect to the assigned lands; and such segregated leases shall continue in full force and effect for the primary term of the original lease, but for not less than two years after the date of discovery of oil or gas in paying quantities upon any other segregated portion of the lands originally subject to such lease. Assignments under this section may also be made of parts of leases which are in their extended term because of any provision of this chapter. Upon the segregation by an assignment of a lease issued after September 2, 1960 and held beyond its primary term by production, actual or suspended, or the payment of compensatory royalty, the segregated lease of an undeveloped, assigned, or retained part shall continue for two years, and so long thereafter as oil or gas is produced in paying quantities.

(Feb. 25, 1920, ch. 85, § 30a, as added Aug. 8, 1946, ch. 916, § 7, 60 Stat. 955, and amended July 29, 1954, ch. 644, § 1(6), 68 Stat. 585; Sept. 2, 1960, Pub. L. 86-705, § 6, 74 Stat. 790.)

AMENDMENTS

1960—Pub. L. 86-705 changed the last sentence of this section to restrict automatic extensions after Sept. 2, 1960.

1954—Act July 29, 1954, authorized partial assignment of a lease in its extended term regardless of reason for extension.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

LEASES ISSUED PRIOR TO SEPTEMBER 2, 1960

Section 6 of Pub. L. 86-705 provided in part that: "The provisions of this section 6 [amending this section] shall not be applicable to any lease issued prior to the effective date of this Act [Sept. 2, 1960]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 187b. Oil or gas leases; written relinquishment of rights; release of obligations

Notwithstanding any provision to the contrary in section 187 of this title, a lessee may at any time make and file in the appropriate land office a written relinquishment of all rights under any oil or gas lease issued under the authority of this chapter or of any legal subdivision of the area included within any such lease. Such relinquishment shall be effective as of the date of its filing, subject to the continued obligation of the lessee and his surety to make payment of all accrured rentals and royalties and to place all wells on the lands to be relinquished in condition for suspension or abandonment in accordance with the applicable lease terms and regulations; thereupon the lessee shall be released of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment.

(Feb. 25, 1920, ch. 85, § 30b, as added Aug. 8, 1946, ch. 916, § 8, 60 Stat. 956.)

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 188. Failure to comply with provisions of lease

(a) Forfeiture

Except as otherwise herein provided, any lease issued under the provisions of this chapter may be forfeited and canceled by an appropriate proceeding in the United States district court for the district in which the property, or some part thereof, is located whenever the lessee fails to comply with any of the provisions of this chapter, of the lease, or of the general regulations promulgated under this chapter and in force at the date of the lease; and the lease may provide for resort to appropriate methods for the settlement of disputes or for remedies for breach of specified conditions thereof.

(b) Cancellation

Any lease issued after August 21, 1935, under the provisions of section 226 of this title shall be subject to cancellation by the Secretary of the Interior after thirty days' notice upon the failure of the lessee to comply with any of the provisions of the lease, unless or until the land covered by any such lease is known to contain valuable deposits of oil or gas. Such notice in advance of cancellation shall be sent the lease owner by registered letter directed to the lease owner's record post-office address, and in case such letter shall be returned as undelivered, such notice shall also be posted for a period of thirty days in the United States land office for the district in which the land covered by such lease is situated, or in the event that there is no district land office for such district, then in the post office nearest such land. Notwithstanding the provisions of this section, however, upon failure of a lessee to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities, the lease shall automatically terminate by operation of law: *Provided, however,* That when the time for payment falls upon any day in which the proper office for payment is not open, payment may be received the next official working day and shall be considered as timely made: *Provided,* That if the rental payment due under a lease is paid on or before the anniversary date but either (1) the amount of the payment has been or is hereafter deficient and the deficiency is nominal, as determined by the Secretary by regulation, or (2) the payment was calculated in accordance with the acreage figure stated in the lease, or in any decision affecting the lease, or made in accordance with a bill or decision which has been rendered by him and such figure, bill, or decision is found to be in error resulting in a deficiency, such lease shall not automatically terminate unless (1) a new lease had been issued prior to May 12, 1970, or (2) the lessee fails to pay the deficiency within the period prescribed in a notice of deficiency sent to him by the Secretary.

(c) Reinstatement

Where any lease has been or is hereafter terminated automatically by operation of law under this section for failure to pay on or before the anniversary date the full amount of rental due, but such rental was paid on or tendered within twenty days thereafter, and it is shown to the satisfaction of the Secretary of the Interior that such failure was either justifiable or not due to a lack of reasonable diligence on the part of the lessee, the Secretary may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, including back rental accruing from the date of termination of the lease, is filed with the Secretary; and

(2) no valid lease has been issued affecting any of the lands covered by the terminated lease prior to the filing of said petition. The Secretary shall not issue any new lease affecting any of the lands covered by such terminated lease for a reasonable period, as determined in accordance with regulations issued by him. In any case where a reinstatement of a terminated lease is granted under this subsection and the Secretary finds that the reinstatement of such lease will not afford the lessee a reasonable opportunity to continue operations under the lease, the Secretary may, at his discretion, extend the term of such lease for such period as he deems reasonable: *Provided,* That (A) such extension shall not exceed a period equivalent to the time beginning when the lessee knew or should have known of the termination and ending on the date the Secretary grants such

petition; (B) such extension shall not exceed a period equal to the unexpired portion of the lease or any extension thereof remaining at the date of termination; and (C) when the reinstatement occurs after the expiration of the term or extension thereof the lease may be extended from the date the Secretary grants the petition.

(d) Discretion of Secretary

Where, in the judgment of the Secretary of the Interior, drilling operations were being diligently conducted on the last day of the primary term of the lease, and, except for nonpayment of rental, the lessee would have been entitled to extension of his lease, pursuant to section 226–1 of this title, the Secretary of the Interior may reinstate such lease notwithstanding the failure of the lessee to have made payment of the next year's rental, provided the conditions of subparagraphs (1) and (2) of subsection (c) of this section are satisfied.

(Feb. 25, 1920, ch. 85, § 31, 41 Stat. 450; Aug. 8, 1946, ch. 916, § 9, 60 Stat. 956; July 29, 1954, ch. 644, § 1(7), 68 Stat. 585; Oct. 15, 1962, Pub. L. 87–822, § 1, 76 Stat. 943; May 12, 1970, Pub. L. 91–245, §§ 1, 2, 84 Stat. 206.)

AMENDMENTS

1970—Subsec. (b). Pub. L. 91–245, § 1, added the proviso authorizing continuance of a lease where timely paid rent is nominally deficient or miscalculated due to an error either in acreage figure stated in the lease, in any decision affecting the lease, or in a bill or decision rendered by the Secretary, except where a new lease was issued prior to May 12, 1970 or the lessee failed to pay the deficiency within the period allowed by the Secretary.

Subsec. (c). Pub. L. 91–245, § 2, added provisions allowing reinstatement of a lease despite a twenty-day delay in payment of rent, made the payment of back rental accruing from the date of termination of the lease a prerequisite to such reinstatement, restricted the Secretary's power to issue a new lease on the lands covered by the terminated lease, gave the Secretary discretion to extend the term of a reinstated lease so as to afford the lessee a reasonable opportunity to continue operations under the lease, and struck out requirement that the petition for reinstatement of any lease terminated prior to Oct. 15, 1962 be filed within 180 days after Oct. 15, 1962.

1962—Pub. L. 87–822 designated existing pars. as subsecs. (a) and (b) and added subsecs. (c) and (d).

1954—Act July 29, 1954, provided for automatic termination of a lease on failure to pay rental on or before the anniversary date of the lease, for any lease on which there is no well capable of producing oil or gas in paying quantities.

1946—Act Aug. 8, 1946, principally added second par. relating to cancellation of leases by the Secretary of the Interior.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

AUTHORITY FOR ISSUANCE OF LEASES UNAFFECTED BY REINSTATEMENT OF LEASES

Section 2 of Pub. L. 87–822 provided that: "Nothing in this Act [amending this section] shall be construed as limiting the authority of the Secretary of the Interior to issue, during the periods in which petitions for reinstatement may be filed, oil and gas leases for any of the lands affected."

OUTER CONTINENTAL SHELF; CANCELLATION OF LEASES

Cancellation of mineral leases on submerged lands of outer Continental Shelf, see sections 1334 and 1337 of Title 43, Public Lands.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 188a. Surrender of leases

The Secretary of the Interior is authorized to accept the surrender of any lease issued pursuant to any of the provisions of this chapter, or any amendment thereof, where the surrender is filed in the Bureau of Land Management subsequent to the accrual but prior to the payment of the yearly rental due under the lease, upon payment of the accrued rental on a pro rata monthly basis for the portion of the lease year prior to the filing of the surrender. The authority granted to the Secretary of the Interior by this section shall extend only to cases in which he finds that the failure of the lessee to file a timely surrender of the lease prior to the accrual of the rental was not due to a lack of reasonable diligence, but it shall not extend to claims or cases which have been referred to the Department of Justice for purposes of suit.

(Nov. 28, 1943, ch. 329, 57 Stat. 593; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

TRANSFER OF FUNCTIONS

"Bureau of Land Management" was substituted for "General Land Office" on authority of Reorg. Plan No. 3 of 1946, § 403, set out in the Appendix to Title 5, Government Organization and Employees.

§ 189. Rules and regulations; boundary lines; State rights unaffected; taxation

The Secretary of the Interior is authorized to prescribe necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this chapter, also to fix and determine the boundary lines of any structure, or oil or gas field, for the purposes of this chapter. Nothing in this chapter shall be construed or held to affect the rights of the States or other local authority to exercise any rights which they may have, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

(Feb. 25, 1920, ch. 85, § 32, 41 Stat. 450.)

OUTER CONTINENTAL SHELF; RULES AND REGULATIONS WITH RESPECT TO LEASES

Rules and regulations with respect to mineral leases on submerged lands of outer Continental Shelf to be prescribed by Secretary of the Interior, see section 1334 of Title 43, Public Lands.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 190. Oaths; requirement; form; blanks

All statements, representations, or reports required by the Secretary of the Interior under this chapter shall be upon oath, unless otherwise specified by him, and in such form and upon such blanks as the Secretary of the Interior may require.

(Feb. 25, 1920, ch. 85, § 33, 41 Stat. 450.)

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 191. Disposition of moneys received

All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this chapter and the Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.], notwithstanding the provisions of section 20 thereof [30 U.S.C. 1019], shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provision of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902, and of those from Alaska as soon as practicable after March 31 and September 30 of each year, 90 per centum thereof shall be paid to the State of Alaska for disposition by the legislature thereof: *Provided*, That all moneys which may accrue to the United States under the provisions of this chapter and the Geothermal Steam Act of 1970 from lands within the naval petroleum reserves shall be deposited in the Treasury as "miscellaneous receipts", as provided by section 7433(b) of title 10. All moneys received under the provisions of this chapter and the Geothermal Steam Act of 1970 not otherwise disposed of by this section shall be credited to miscellaneous receipts.

(Feb. 25, 1920, ch. 85, § 35, 41 Stat. 450; May 27, 1947, ch. 83, 61 Stat. 119; Aug. 3, 1950, ch. 527, 64 Stat. 402; July 10, 1957, Pub. L. 85-88, § 2, 71 Stat. 282; July 7, 1958, Pub. L. 85-508, §§ 6(k), 28(b), 72 Stat. 343, 351; Apr. 21, 1976, Pub. L. 94-273, § 6(2), 90 Stat. 377; Aug. 4, 1976, Pub. L. 94-377, § 9, 90 Stat. 1090; Sept. 28, 1976, Pub. L. 94-422, title III, § 301, 90 Stat. 1323; Oct. 21, 1976, Pub. L. 94-579, title III, § 317(a), 90 Stat. 2770.)

REFERENCES IN TEXT

The Geothermal Steam Act of 1970, referred to in text, is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables volume.

The Reclamation Act, referred to in text, is act June 17, 1902, ch. 1093, 32 Stat. 388, as amended, which is classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 371 of Title 43 and Tables volume.

CODIFICATION

"Section 7433(b) of title 10" was substituted for "the Act of June 4, 1920 (41 Stat. 813), as amended June 30, 1938 (52 Stat. 1252)", which had been classified to section 524 of former Title 34, Navy, on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces.

Provisions which authorized the payment of monies to the Territory of Alaska were omitted as superseded by the provisions authorizing the payment of monies to the State of Alaska.

AMENDMENTS

1976—Pub. L. 94-579 substituted provisions setting forth determination of amount, time for payments, and manner of expenditure by the States of all moneys received from sales, etc., under the provisions of this chapter and the Geothermal Steam Act of 1970, and proviso relating to naval petroleum reserve moneys, for provisions setting forth determination of amount and time for payment to the States of all moneys received from sales, etc., under the provisions of this chapter, and provisos relating to naval petroleum reserve moneys, additional moneys from sales, etc., under this chapter and the Geothermal Steam Act of 1970, and expenditure of State oil shale funds.

Pub. L. 94-422 added proviso that all moneys paid to any State from sales, bonuses, royalties, and rentals of oil shale in public lands may be used by any State for planning, construction, and maintenance of public facilities as legislature of State may direct.

Pub. L. 94-377 substituted "40 per centum thereof shall be paid into, reserved" for "52½ per centum thereof shall be paid into, reserved", added "and the Geothermal Steam Act of 1970, notwithstanding the provisions of section 20 thereof" preceding "shall be paid into the Treasury of the United States", "and the Geothermal Steam Act of 1970" preceding "from lands within the naval petroleum reserves" and preceding "not otherwise disposed of by this section", respectively, the proviso relating to the payment of an additional 12½ per centum of all money received from lands under the provisions of this chapter and the Geothermal Steam Act of 1970 to the State within whose boundaries the lands are located, to be used for construction of public facilities, and the proviso relating to the use of funds received by Colorado and Utah under the specified leases.

Pub. L. 94-273 substituted "March" for "December" and "September" for "June".

1958—Pub. L. 85-508, §§ 6(k), 28(b), eliminated provisions which related to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska and substituted ", and of those from Alaska 52½ per centum thereof shall be paid to the State of Alaska for disposition by the legislators thereof" for ", and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legisla-

ture of the Territory of Alaska" preceding the proviso, respectively.

1957—Pub. L. 85-88 inserted ", and of those from Alaska 52½ per centum thereof shall be paid to the Territory of Alaska for disposition by the Legislature of the Territory of Alaska" preceding the proviso.

1950—Act Aug. 3, 1950, in providing that payments to States be made bi-annually instead of annually, substituted "as soon as practicable after December 31 and June 30 of each year" for "after the expiration of each fiscal year".

1947—Act May 27, 1947, extended provisions by allocating 37½% of the money received from sales, bonuses, royalties, and rentals of public lands to the Territory of Alaska, for the construction and maintenance of public schools or other public educational institutions and added provisions relating to disposition of proceeds or income derived by the United States from mineral school sections in the Territory of Alaska.

SAVINGS PROVISIONS

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a Savings Provisions note under section 1701 of Title 43, Public Lands.

FUNDS HELD BY COLORADO AND UTAH FROM INTERIOR DEPARTMENT OIL SHALE TEST LEASES

Section 317(b) of Pub. L. 94-579 provided that: "Funds now held pursuant to said section 35 [this section] by the States of Colorado and Utah separately from the Department of the Interior oil shale test leases known as C-A; C-B; U-A and U-B shall be used by such States and subdivisions as the legislature of each State may direct giving priority to those subdivisions socially or economically impacted by the development of minerals leased under this Act for (1) planning, (2) construction and maintenance of public facilities, and (3) provision of public services."

ADMISSION OF ALASKA AS STATE

Effectiveness of amendment by Pub. L. 85-508 was dependent upon the admission of Alaska into the Union under sections 6(k) and 8(b) of Pub. L. 85-508. Admission was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508. See notes preceding section 21 of Title 48, Territories and Insular Possessions.

OUTER CONTINENTAL SHELF; REVENUES FROM LEASES

Disposition of revenues from leases on submerged lands of outer Continental Shelf, see sections 1337 and 1338 of Title 43, Public Lands.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

Naval petroleum reserves, see section 7421 et seq. of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285, 292, 541f of this title; title 10 sections 7421, 7435; title 16 section 470h; title 31 section 1604; title 43 section 1717.

§ 192. Payment of royalties in oil or gas; sale of such oil or gas

All royalty accruing to the United States under any oil or gas lease or permit under this chapter on demand of the Secretary of the Interior shall be paid in oil or gas.

Upon granting any oil or gas lease under this chapter, and from time to time thereafter during said lease, the Secretary of the Interior shall, except whenever in his judgment it is desirable to retain the same for the use of the United States, offer for sale for such period as he may determine, upon notice and advertisement on sealed bids or at public auction, all royalty oil and gas accruing or reserved to the United States under such lease. Such advertisement and sale shall reserve to the Secretary of the Interior the right to reject all bids whenever within his judgment the interest of the United States demands; and in cases where no satisfactory bid is received or where the accepted bidder fails to complete the purchase, or where the Secretary of the Interior shall determine that it is unwise in the public interest to accept the offer of the highest bidder, the Secretary of the Interior, within his discretion, may readvertise such royalty for sale, or sell at private sale at not less than the market price for such period, or accept the value thereof from the lessee: *Provided*, That inasmuch as the public interest will be served by the sale of royalty oil to refineries not having their own source of supply for crude oil, the Secretary of the Interior, when he determines that sufficient supplies of crude oil are not available in the open market to such refineries, is authorized and directed to grant preference to such refineries in the sale of oil under the provisions of this section, for processing or use in such refineries and not for resale in kind, and in so doing may sell to such refineries at private sale at not less than the market price any royalty oil accruing or reserved to the United States under leases issued pursuant to this chapter: *Provided further*, That in selling such royalty oil the Secretary of the Interior may at his discretion prorate such oil among such refineries in the area in which the oil is produced: *Provided, however*, That pending the making of a permanent contract for the sale of any royalty, oil or gas as herein provided, the Secretary of the Interior may sell the current product at private sale, at not less than the market price: *And provided further*, That any royalty, oil, or gas may be sold at not less than the market price at private sale to any department or agency of the United States.

(Feb. 25, 1920, ch. 85, § 36, 41 Stat. 451; July 13, 1946, ch. 574, 60 Stat. 533.)

AMENDMENTS

1946—Act July 13, 1946, inserted first two provisos which were enacted in order to assist small business enterprise by encouraging the operation of oil refineries not having an adequate supply of crude oil.

OUTER CONTINENTAL SHELF; ROYALTIES FROM LEASES

Payment of royalties from mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 192a, 192b, 275, 285 of this title; title 10 sections 7421, 7435.

§ 192a. Cancellation or modification of contracts

Where, under any existing contract entered into pursuant to the first proviso in the second paragraph of section 192 of this title, any refinery is required to pay a premium price for the

purchase of Government royalty oil, such refinery may, at its option, by written notice to the Secretary of the Interior, elect either—

(1) to terminate such contract, the termination to take place at the end of the calendar month following the month in which such notice is given; or

(2) to retain such contract with the modifications, that (a) the price, on and after March 1, 1949, shall be as defined in the contract, without premium payments, (b) any credit thereby resulting from past premium payments shall be added to the refinery's account, and (c) the Secretary may, at his option, elect to terminate the contract as so modified, such termination to take place at the end of the third calendar month following the month in which written notice thereof is given by the Secretary.

(Sept. 1, 1949, ch. 529, § 1, 63 Stat. 682.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 192b, 192c of this title; title 10 sections 7421, 7435.

§ 192b. Application to contracts

The provisions of sections 192a to 192c of this title shall apply to all existing contracts for the purchase of Government royalty oil entered into after July 13, 1946, and prior to September 1, 1949, irrespective of whether a determination of preference status was made in connection with the award of such contracts, but shall not apply to any such contract which subsequent to its award has been transferred, through the acquisition of stock interests or other transactions, to the ownership or control of a refinery ineligible for a preference under section 192 of this title, and the regulations in force thereunder at the time of such transfer.

(Sept. 1, 1949, ch. 529, § 2, 63 Stat. 682.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 192c of this title; title 10 sections 7421, 7435.

§ 192c. Rules and regulations governing issuance of certain leases; disposition of receipts

The Secretary of the Interior is authorized under general rules and regulations to be prescribed by him to issue leases or permits for the exploration, development, and utilization of the mineral deposits, other than those subject to the provisions of chapter 7 of this title, in those lands added to the Shasta National Forest by the Act of March 19, 1948 (Public Law 449, Eightieth Congress), which were acquired with funds of the United States or lands received in exchange therefor: *Provided*, That any permit or lease of such deposits in lands administered by the Secretary of Agriculture shall be issued only with his consent and subject to such conditions as he may prescribe to insure the adequate utilization of the lands for the purposes set forth in the Act of March 19, 1948: *And provided further*, That all receipts derived from leases or permits issued under the authority of sections 192a to 192c of this title shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease or permit, the intention of this provision being that sections 192a to 192c of this title shall not affect the distribution of receipts pursuant to legislation applicable to such lands.

(Sept. 1, 1949, ch. 529, § 3, 63 Stat. 683.)

REFERENCES IN TEXT

The Act of March 19, 1948 (Public Law 449, Eightieth Congress), referred to in text, is act Mar. 19, 1948, ch. 139, 62 Stat. 83. See Shasta National Forest codification note under sections 486a to 486w of Title 16, Conservation.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior under this section, with respect to the use and disposal from lands under the jurisdiction of the Secretary of Agriculture of those mineral materials which the Secretary of Agriculture is authorized to dispose of from other lands under his jurisdiction under sections 601 to 604 and 611 to 615 of this title, see Pub. L. 86-509, June 11, 1960, 74 Stat. 205, set out as a Transfer of Functions from Secretary of Interior to Secretary of Agriculture note under section 2201 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 192b of this title; title 16 section 460q-5.

§ 193. Disposition of deposits of coal, and so forth

The deposits of coal, phosphate, sodium, potassium, oil, oil shale, and gas, herein referred to, in lands valuable for such minerals, including lands and deposits in Lander, Wyoming, coal entries numbered 18 to 49, inclusive, shall be subject to disposition only in the form and manner provided in this chapter, except as to valid claims existent on February 25, 1920, and thereafter maintained in compliance with the laws under which initiated, which claims may be perfected under such laws, including discovery.

(Feb. 25, 1920, ch. 85, § 37, 41 Stat. 451; Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 11, 60 Stat. 957.)

CODIFICATION

Section was from act Feb. 25, 1920, in which words now reading "in Lander, Wyoming, coal entries numbered 18 to 49, inclusive," originally read "described in the joint resolution entitled 'Joint resolution authorizing the Secretary of the Interior to permit the continuation of coal mining operations on certain lands in Wyoming,' approved August 12, 1912, (Thirty-seven Statutes at Large p. 1346)." The change was effected

by interpolation, in lieu of the reference to the 1912 resolution, the actual description of lands contained in said resolution.

AMENDMENTS

1946—Act Aug. 8, 1946, excluded from section 5 of act Feb. 7, 1927, the incorporation, by reference, of section 181 of this title, and reenacted inclusion of deposits of potassium.

1927—Act Feb. 7, 1927, included deposits of potassium.

CROSS REFERENCES

Laws applicable, see sections 275 and 285 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 275, 285 of this title; title 10 sections 7421, 7435.

§ 193a. Preference right of United States to purchase coal for Army and Navy; price for coal; civil actions; jurisdiction

The United States shall, at all times, have the preference right to purchase so much of the product of any mine or mines opened upon the lands sold under the provisions of this Act, as may be necessary for the use of the Army and Navy, and at such reasonable and remunerative price as may be fixed by the President; but the producers of any coal so purchased who may be dissatisfied with the price thus fixed shall have the right to prosecute suits against the United States in the Court of Claims for the recovery of any additional sum or sums they may claim as justly due upon such purchase.

(May 28, 1908, ch. 211, § 2, 35 Stat. 424.)

REFERENCES IN TEXT

"This Act", referred to in the text, means act May 28, 1908. Sections 1, 3, and 4 of this Act related to consolidation of claims permitted and the limit of acreage, prohibition against unlawful trusts, etc., and contents of patents, respectively, and were not classified to the Code.

CODIFICATION

Section was not enacted as part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

Section was formerly classified to section 453 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 194. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644

Section, acts Feb. 25, 1920, ch. 85, § 38, 41 Stat. 451; Mar. 3, 1925, ch. 462, 43 Stat. 1145, related to fees and commissions of registers (successors to consolidated offices of registers and receivers) the predecessors of managers.

SUBCHAPTER II—COAL

§ 201. Leases and exploration

(a) Division into tracts; bidding and award; leases to public agencies; fair market value of leases; leases in National Forests; comprehensive land-use plans; notice of proposed lease offering

(1) The Secretary of the Interior is authorized to divide any lands subject to this chapter which have been classified for coal leasing into leasing tracts of such size as he finds appropriate and in the public interest and which will permit the mining of all coal which can be economically extracted in such tract and thereafter he shall, in his discretion, upon the request of any qualified applicant or on his own motion, from time to time, offer such lands for leasing and shall award leases thereon by competitive bidding. No less than 50 per centum of the total acreage offered for lease by the Secretary in any one year shall be leased under a system of deferred bonus payment. Upon default or cancellation of any coal lease for which bonus payments are due, any unpaid remainder of the bid shall be immediately payable to the United States. A reasonable number of leasing tracts shall be reserved and offered for lease in accordance with this section to public bodies, including Federal agencies, rural electric cooperatives, or nonprofit corporations controlled by any of such entities: *Provided*, That the coal so offered for lease shall be for use by such entity or entities in implementing a definite plan to produce energy for their own use or for sale to their members or customers (except for short-term sales to others). No bid shall be accepted which is less than the fair market value, as determined by the Secretary, of the coal subject to the lease. Prior to his determination of the fair market value of the coal subject to the lease, the Secretary shall give opportunity for and consideration to public comments on the fair market value. Nothing in this section shall be construed to require the Secretary to make public his judgment as to the fair market value of the coal to be leased, or the comments he receives thereon prior to the issuance of the lease. He is authorized, in awarding leases for coal lands improved and occupied or claimed in good faith, prior to February 25, 1920, to consider and recognize equitable rights of such occupants or claimants.

(2)(A) The Secretary shall not issue a lease or leases under the terms of this chapter to any person, association, corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation, where any such entity holds a lease or leases issued by the United States to coal deposits and has held such lease or leases for a period of ten years when such entity is not, except as provided for in section 207(b) of this title, producing coal from the lease deposits in commercial quantities. In computing the ten-year period referred to in the preceding sentence, periods of time prior to August 4, 1976, shall not be counted.

(B) Any lease proposal which permits surface coal mining within the boundaries of a National Forest which the Secretary proposes to issue under this chapter shall be submitted to the Governor of each State within which the coal deposits subject to such lease are located. No such lease may be issued under this chapter before the expiration of the sixty-day period beginning on the date of such submission. If any Governor to whom a proposed lease was submitted under this subparagraph objects to the issuance of such lease, such lease shall not be issued before the expiration of the six-month period beginning on the date the Secretary is notified by the Governor of such objec-

tion. During such six-month period, the Governor may submit to the Secretary a statement of reasons why such lease should not be issued and the Secretary shall, on the basis of such statement, reconsider the issuance of such lease.

(3)(A)(i) No lease sale shall be held unless the lands containing the coal deposits have been included in a comprehensive land-use plan and such sale is compatible with such plan. The Secretary of the Interior shall prepare such land-use plans on lands under his responsibility where such plans have not been previously prepared. The Secretary of the Interior shall inform the Secretary of Agriculture of substantial development interest in coal leasing on lands within the National Forest System. Upon receipt of such notification from the Secretary of the Interior, the Secretary of Agriculture shall prepare a comprehensive land-use plan for such areas where such plans have not been previously prepared. The plan of the Secretary of Agriculture shall take into consideration the proposed coal development in these lands: *Provided*, That where the Secretary of the Interior finds that because of non-Federal interest in the surface or because the coal resources are insufficient to justify the preparation costs of a Federal comprehensive land-use plan, the lease sale can be held if the lands containing the coal deposits have been included in either a comprehensive land-use plan prepared by the State within which the lands are located or a land use analysis prepared by the Secretary of the Interior.

(ii) In preparing such land-use plans, the Secretary of the Interior or, in the case of lands within the National Forest System, the Secretary of Agriculture, or in the case of a finding by the Secretary of the Interior that because of non-Federal interests in the surface or insufficient Federal coal, no Federal comprehensive land-use plans can be appropriately prepared, the responsible State entity shall consult with appropriate State agencies and local governments and the general public and shall provide an opportunity for public hearing on proposed plans prior to their adoption, if requested by any person having an interest which is, or may be, adversely affected by the adoption of such plans.

(iii) Leases covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon consent of the other Federal agency and upon such conditions as it may prescribe with respect to the use and protection of the nonmineral interests in those lands.

(B) Each land-use plan prepared by the Secretary (or in the case of lands within the National Forest System, the Secretary of Agriculture pursuant to subparagraph (A)(i)) shall include an assessment of the amount of coal deposits in such land, identifying the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations.

(C) Prior to issuance of any coal lease, the Secretary shall consider effects which mining of the proposed lease might have on an impacted community or area, including, but not limited to, impacts on the environment, on agricultural and other economic activities, and on public services. Prior to issuance of a lease, the Secretary shall evaluate and compare the effects of recovering coal by deep mining, by surface mining, and by any other method to determine which method or methods or sequence of methods achieves the maximum economic recovery of the coal within the proposed leasing tract. This evaluation and comparison by the Secretary shall be in writing but shall not prohibit the issuance of a lease; however, no mining operating plan shall be approved which is not found to achieve the maximum economic recovery of the coal within the tract. Public hearings in the area shall be held by the Secretary prior to the lease sale.

(D) No lease sale shall be held until after the notice of the proposed offering for lease has been given once a week for three consecutive weeks in a newspaper of general circulation in the county in which the lands are situated in accordance with regulations prescribed by the Secretary.

(E) Each coal lease shall contain provisions requiring compliance with the Federal Water Pollution Control Act (33 U.S.C. 1151–1175) and the Clean Air Act (42 U.S.C. 1857 and following).

(b) Exploration licenses; term; rights and conditions; violations

(1) The Secretary may, under such regulations as he may prescribe, issue to any person an exploration license. No person may conduct coal exploration for commercial purposes for any coal on lands subject to this chapter without such an exploration license. Each exploration license shall be for a term of not more than two years and shall be subject to a reasonable fee. An exploration license shall confer no right to a lease under this chapter. The issuance of exploration licenses shall not preclude the Secretary from issuing coal leases at such times and locations and to such persons as he deems appropriate. No exploration license will be issued for any land on which a coal lease has been issued. A separate exploration license will be required for exploration in each State. An application for an exploration license shall identify general areas and probable methods of exploration. Each exploration license shall contain such reasonable conditions as the Secretary may require, including conditions to insure the protection of the environment, and shall be subject to all applicable Federal, State, and local laws and regulations. Upon violation of any such conditions or laws the Secretary may revoke the exploration license.

(2) A licensee may not cause substantial disturbance to the natural land surface. He may not remove any coal for sale but may remove a reasonable amount of coal from the lands subject to this chapter included under his license for analysis and study. A licensee must comply with all applicable rules and regulations of the Federal agency having jurisdiction over the surface of the lands subject to this chapter. Exploration licenses covering lands the surface of which is under the jurisdiction of any Federal agency other than the Department of the Interior may be issued only upon such conditions as it may prescribe with respect to the use and

protection of the nonmineral interests in those lands.

(3) The licensee shall furnish to the Secretary copies of all data (including, but not limited to, geological, geophyscal,[1] and core drilling analyses) obtained during such exploration. The Secretary shall maintain the confidentiality of all data so obtained until after the areas involved have been leased or until such time as he determines that making the data available to the public would not damage the competitive position of the licensee, whichever comes first.

(4) Any person who willfully conducts coal exploration for commercial purposes on lands subject to this chapter without an exploration license issued hereunder shall be subject to a fine of not more than $1,000 for each day of violation. All data collected by said person on any Federal lands as a result of such violation shall be made immediately available to the Secretary, who shall make the data available to the public as soon as it is practicable. No penalty under this subsection shall be assessed unless such person is given notice and opportunity for a hearing with respect to such violation.

(Feb. 25, 1920, ch. 85, § 2(a), (b), 41 Stat. 438; June 3, 1948, ch. 379, § 1, 62 Stat. 289; Sept. 9, 1959, Pub. L. 86-252, § 2, 73 Stat. 490; Aug. 31, 1964, Pub. L. 88-526, § 2(a), (b), 78 Stat. 710; Aug. 4, 1976, Pub. L. 94-377, §§ 2-4, 90 Stat. 1083, 1085.)

REFERENCES IN TEXT

This section, referred to twice in subsec. (a)(1) of this section, is section 2 of act Feb. 25, 1920, as amended, which is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 comprise this section, subsec. (c) of section 2 comprises section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94-377, comprises section 202a of this title.

The Federal Water Pollution Control Act, referred to in subsec. (a)(3)(E), is act June 30, 1948, ch. 758, as amended generally by Pub. L. 92-500, § 2, Oct. 18, 1972, 86 Stat. 816, which is classified generally to chapter 26 (§ 1251 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see Short Title note set out under section 1251 of Title 33 and Tables volume.

The Clean Air Act, referred to in subsec. (a)(3)(E), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, which is classified generally to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1857 of Title 42 and Tables volume.

CODIFICATION

Section is composed of subsecs. (a) and (b) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948. Subsec. (c) of section 2 of act Feb. 25, 1920, comprises section 202 of this title. Subsec. (d) of said section 2, as added by Pub. L. 94-377, § 5(b), Aug. 4, 1976, 90 Stat. 1086, comprises section 202a of this title.

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-377, § 2, redesignated former subsec. (a) as (a)(1), and as so redesignated, substituted provisions authorizing the division of any lands subject to this chapter which have been classified for coal leasing into tracts as the Secretary finds appropriate, in the public interest and will permit the mining of all economically extractable coal, such leases to be awarded by competitive bidding for provisions authorizing the division of classified or unclassified lands into tracts of forty acres, or multiples thereof, in such form as, in the Secretary's opinion will permit the most economical mining, such leases to be awarded by competitive bidding or by such other method adopted by general regulation, added provisions relating to deferred bonus payments leasing, leasing to public agencies, and to the fair market value of leases, and struck out provision for notice of proposed offering for lease in a newspaper of general circulation prior to approval or issuance of a competitive lease of coal.

Subsecs. (a)(2), (3). Pub. L. 94-377, § 3, added subsecs. (a)(2) and (3).

Subsec. (b)(1). Pub. L. 94-377, § 4, redesignated former subsec. (b) as (b)(1), and as so redesignated, substituted provisions relating to the issuance, term and conditions of exploration licenses for provisions relating to the issuance of prospecting permits for a term of two years, for not exceeding 5125 acres, with an extension period of two years if the permittee has been unable, with the exercise of reasonable diligence to determine the existence or workability of coal deposits and desires further exploration.

Subsecs. (b)(2) to (4). Pub. L. 94-377, § 4, added subsecs. (b)(2) to (4).

1964—Subsec. (a). Pub. L. 88-526, § 2(a), removed the limitation on a single competitive lease by deleting "but in no case exceeding two thousand five hundred and sixty acres in any one leasing tract," following "such tracts,".

Subsec. (b). Pub. L. 88-526, § 2(b), increased the limitation on the area carried by a prospecting permit from 2,560 to 5,120 acres.

1959—Subsec. (a). Pub. L. 86-252 deleted "outside of the Territory of Alaska," following "United States,".

1948—Act June 3, 1948, which amended section generally divided it into subsections (a) to (c) and made minor technical changes. Subsecs. (a) and (b) comprise this section and subsec. (c) is set out as section 202 of this title.

SAVINGS PROVISIONS

Section 4 of Pub. L. 94-377 provided in part that amendment by such section to subsec. (b) is subject to valid existing rights.

STUDY OF COAL LEASES BY DIRECTOR OF THE OFFICE OF TECHNOLOGY ASSESSMENT

Section 10 of Pub. L. 94-377 provided that the Director of the Office of Technology Assessment conduct a complete study of coal leases entered into by the United States under sections 201, 202, and 202a of this title, which study was to include an analysis of all mining activities, present and potential value of these leases, receipts to the Federal Government from these leases and submit recommendations as to the feasibility of the use of deep mining technology in leased areas with the results of his study to Congress within one year after Aug. 4, 1976.

COAL MINING ON AREAS OF NATIONAL PARK, WILDLIFE, WILDERNESS PRESERVATION, TRAIL, SCENIC RIVERS, SYSTEMS NOT AUTHORIZED

Section 16 of Pub. L. 94-377 provided that: "Nothing in this Act [see Short Title note under section 181 of this title], or the Mineral Lands Leasing Act [this chapter] and the Mineral Leasing Act for Acquired Lands [section 351 et seq. of this title] which are amended by this Act, shall be construed as authorizing coal mining on any area of the National Park System, the National Wildlife Refuge System, the National Wilderness Preservation System, the National System of Trails, and the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act [section 1276(a) of Title 16, Conservation]".

[1] So in original. Probably should be "geophysical".

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 202, 208, 208-1, of this title; title 10 sections 7421, 7435.

§ 201-1. Repealed. Pub. L. 94-377, § 5(a), Aug. 4, 1976, 90 Stat. 1086

Section, Pub. L. 88-526, § 2(c), (d), Aug. 31, 1964, 78 Stat. 710, permitted the entering into of contracts for collective prospecting, development or operation of coalfields by lessees for the purpose of conserving natural resources.

SAVINGS PROVISIONS

Section 5(a) of Pub. L. 94-377 provided in part that repeal by such section of this section is subject to valid existing rights.

§ 201a. Repealed. June 3, 1948, ch. 379, § 8, 62 Stat. 291

Section, act Mar. 9, 1928, ch. 159, § 1, 45 Stat. 251, related to extension of coal prospecting permits.

§ 201b. Omitted

CODIFICATION

Section, act Mar. 9, 1928, ch. 159, § 2, 45 Stat. 251, provided for extension of coal permits already expired for a period of two years from March 9, 1928.

§ 202. Common carriers; limitations of lease or permit

No company or corporation operating a common-carrier railroad shall be given or hold a permit or lease under the provisions of this chapter for any coal deposits except for its own use for railroad purposes; and such limitations of use shall be expressed in all permits and leases issued to such companies or corporations; and no such company or corporation shall receive or hold under permit or lease more than ten thousand two hundred and forty acres in the aggregate nor more than one permit or lease for each two hundred miles of its railroad lines served or to be served from such coal deposits exclusive of spurs or switches and exclusive of branch lines built to connect the leased coal with the railroad, and also exclusive of parts of the railroad operated mainly by power produced otherwise than by steam.

Nothing in this section and section 201 of this title shall preclude such a railroad of less than two hundred miles in length from securing one permit or lease thereunder but no railroad shall hold a permit or lease for lands in any State in which it does not operate main or branch lines.

(Feb. 25, 1920, ch. 85, § 2(c), 41 Stat. 438; June 13, 1944, ch. 244, 58 Stat. 275; June 3, 1948, ch. 379, § 1, 62 Stat. 289.)

CODIFICATION

Section is composed of subsec. (c) of section 2 of act Feb. 25, 1920, as amended by section 1 of act June 3, 1948. Subsecs. (a) and (b) of section 2 of act Feb. 25, 1920, comprise section 201 of this title. Subsec. (d) of said section 2, as added by Pub. L. 94-377, § 5(b), Aug. 4, 1976, 90 Stat. 1086, comprises section 202a of this title.

AMENDMENTS

1948—Act June 3, 1948, reenacted the provisions of this section without change except to make it subsec. (c) of section 2 of act Feb. 25, 1920.

1944—Act June 13, 1944, inserted "more than ten thousand two hundred and forty acres in the aggregate nor" preceding "more than one permit", substituted "railroad lines served or to be served from such coal deposits" for "railroad line within the State in which such property is situated,", and prohibited a railroad from holding a permit or lease for lands in any State in which it did not operate main or branch lines.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title; title 10 sections 7421, 7435.

§ 202a. Consolidation of coal leases into logical mining unit

(1) Approval by Secretary; public hearing; definition

The Secretary, upon determining that maximum economic recovery of the coal deposit or deposits is served thereby, may approve the consolidation of coal leases into a logical mining unit. Such consolidation may only take place after a public hearing, if requested by any person whose interest is or may be adversely affected. A logical mining unit is an area of land in which the coal resources can be developed in an efficient, economical, and orderly manner as a unit with due regard to conservation of coal reserves and other resources. A logical mining unit may consist of one or more Federal leaseholds, and may include intervening or adjacent lands in which the United States does not own the coal resources, but all the lands in a logical mining unit must be under the effective control of a single operator, be able to be developed and operated as a single operation and be contiguous.

(2) Mining plan; requirements

After the Secretary has approved the establishment of a logical mining unit, any mining plan approved for that unit must require such diligent development, operation, and production that the reserves of the entire unit will be mined within a period established by the Secretary which shall not be more than forty years.

(3) Conditions for approval

In approving a logical mining unit, the Secretary may provide, among other things, that (i) diligent development, continuous operation, and production on any Federal lease or non-Federal land in the logical mining unit shall be construed as occurring on all Federal leases in that logical mining unit, and (ii) the rentals and royalties for all Federal leases in a logical mining unit may be combined, and advanced royalties paid for any lease within a logical mining unit may be credited against such combined royalties.

(4) Amendment to lease

The Secretary may amend the provisions of any lease included in a logical mining unit so that mining under that lease will be consistent

with the requirements imposed on that logical mining unit.

(5) Leases issued before date of enactment of this Act

Leases issued before the date of enactment of this Act may be included with the consent of all lessees in such logical mining unit, and, if so included, shall be subject to the provisions of this section.

(6) Lessee required to form unit

By regulation the Secretary may require a lessee under this chapter to form a logical mining unit, and may provide for determination of participating acreage within a unit.

(7) Required acreage

No logical mining unit shall be approved by the Secretary if the total acreage (both Federal and non-Federal) of the unit would exceed twenty-five thousand acres.

(8) Acreage limitations for coal leases not waived

Nothing in this section shall be construed to waive the acreage limitations for coal leases contained in section 184(a) of this title.

(Feb. 25, 1920, ch. 85, § 2(d), as added Aug. 4, 1976, Pub. L. 94-377, § 5(b), 90 Stat. 1086.)

REFERENCES IN TEXT

The date of enactment of this Act, referred to in par. (5), probably means the date of enactment of Pub. L. 94-377, which was approved Aug. 4, 1976.

This section, referred to in pars. (5) and (8), is section 2 of act Feb. 25, 1920, as amended, which is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 comprise section 201 of this title, subsec. (c) of section 2 comprises section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94-377, comprises this section.

CODIFICATION

Section is composed of subsec. (d) of section 2 of act Feb. 25, 1920, as added by Pub. L. 94-377. Subsecs. (a) and (b) of said section 2 comprise section 201 of this title. Subsec. (c) of said section 2 comprises section 202 of this title.

§ 203. Additional contiguous lands allowed lessees

Any person, association, or corporation holding a lease of coal lands or coal deposits under the provisions of this chapter may with the approval of the Secretary of the Interior, upon a finding by him that it would be in the interest of the United States, secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous to those embraced in such lease, but in no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres, or add acreage larger than that in the original lease. The Secretary shall prescribe terms and conditions which shall be consistent with this chapter and applicable to all of the acreage in such modified lease.

(Feb. 25, 1920, ch. 85, § 3, 41 Stat. 439; Aug. 4, 1976, Pub. L. 94-377, § 13(b), 90 Stat. 1090.)

AMENDMENTS

1976—Pub. L. 94-377 struck out the advantage to the lessee as one of the conditions for modification of the original lease, substituted provision prohibiting the addition of total area in excess of 160 acres or adding acreage larger than that in the original lease for provision limiting the total area embraced in such modified lease to an aggregate of 2560 acres, and added provision authorizing the Secretary to prescribe terms and conditions consistent with this chapter which shall be applicable to the total acreage in the modified lease.

SAVINGS PROVISIONS

Section 13(b) of Pub. L. 94-377 provided in part that amendment by such section is subject to valid existing rights.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title; title 10 sections 7421, 7435.

§ 204. Repealed. Pub. L. 94-377, § 13(a), Aug. 4, 1976, 90 Stat. 1090

Section, act Feb. 25, 1920, ch. 85, § 4, 41 Stat. 439, provided for the leasing of an additional tract of land or coal deposit, not to exceed 2560 acres, upon a showing by a lessee that all workable deposits of coal would be exhausted, worked out, or removed within three years thereafter.

SAVINGS PROVISIONS

Section 13(a) of Pub. L. 94-377 provided in part that repeal by such section of this section is subject to valid existing rights.

§ 205. Consolidation of leases

If, in the judgment of the Secretary of the Interior, the public interest will be subserved thereby, lessees holding under lease areas not exceeding the maximum permitted under this chapter may consolidate their leases through the surrender of the original leases and the inclusion of such areas in a new lease of not to exceed two thousand five hundred and sixty acres of contiguous lands.

(Feb. 25, 1920, ch. 85, § 5, 41 Stat. 439.)

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title; title 10 sections 7421, 7435.

§ 206. Noncontiguous coal or phosphate tracts in single lease

Where coal or phosphate lands aggregating two thousand five hundred and sixty acres and subject to lease hereunder do not exist as contiguous areas, the Secretary of the Interior is authorized, if, in his opinion, the interests of the public and of the lessee will be thereby subserved, to embrace in a single lease noncontiguous tracts which can be operated as a single mine or unit.

(Feb. 25, 1920, ch. 85, § 6, 41 Stat. 439.)

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title; title 10 sections 7421, 7435.

§ 207. Conditions of lease

(a) Term of lease; annual rentals; royalties; readjustment of conditions

A coal lease shall be for a term of twenty years and for so long thereafter as coal is produced annually in commercial quantities from that lease. Any lease which is not producing in commercial quantities at the end of ten years shall be terminated. The Secretary shall by regulation prescribe annual rentals on leases. A lease shall require payment of a royalty in such amount as the Secretary shall determine of not less than 12½ per centum of the value of coal as defined by regulation, except the Secretary may determine a lesser amount in the case of coal recovered by underground mining operations. The lease shall include such other terms and conditions as the Secretary shall determine. Such rentals and royalties and other terms and conditions of the lease will be subject to readjustment at the end of its primary term of twenty years and at the end of each ten-year period thereafter if the lease is extended.

(b) Diligent development and continued operation; suspension of condition on payment of advance royalties

Each lease shall be subject to the conditions of diligent development and continued operation of the mine or mines, except where operations under the lease are interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior, upon determining that the public interest will be served thereby, may suspend the condition of continued operation upon the payment of advance royalties. Such advance royalties shall be no less than the production royalty which would otherwise be paid and shall be computed on a fixed reserve to production ratio (determined by the Secretary). The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed ten. The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under such lease to the extent that such advance royalties have not been used to reduce production royalties for a prior year. No advance royalty paid during the initial twenty-year term of a lease shall be used to reduce a production royalty after the twentieth year of a lease. The Secretary may, upon six months' notification to the lessee cease to accept advance royalties in lieu of the requirement of continued operation. Nothing in this subsection shall be construed to affect the requirement contained in the second sentence of subsection (a) of this section relating to commencement of production at the end of ten years.

(c) Operation and reclamation plan

Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, and not later than three years after a lease is issued, the lessee shall submit for the Secretary's approval an operation and reclamation plan. The Secretary shall approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(Feb. 25, 1920, ch. 85, § 7, 41 Stat. 439; Aug. 4, 1976, Pub. L. 94-377, § 6, 90 Stat. 1087.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-377 designated existing provisions as subsec. (a) and as so designated, substituted provisions limiting the lease term to 20 years and for so long thereafter as coal is produced annually in commercial quantities for provision authorizing leases for indeterminate periods upon condition of diligent development and continued operation except for strikes, the elements, or casualties not attributable to lessees; provisons for payment of royalties as determined by the Secretary of not less than 12½ per centum of coal value, except as reduced for coal from underground mining operations for provisions specifying royalties as stated in the lease, but not less than 5 cents per ton; provision for rentals as prescribed by regulation for provision setting rentals as fixed by the Secretary at not less than 25 cents per acre for the first year, 50 cents for the second, third, fourth and fifth years, and $1 for each year thereafter, and provision for readjustment of royalties and terms and conditions after primary period of twenty years and subsequent ten year intervals for provision for readjustment after twenty years unless otherwise provided by law.

Subsecs. (b), (c). Pub. L. 94-377 added subsecs. (b) and (c).

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 201, 208 of this title; title 10 sections 7421, 7435.

§ 208. Permits to take coal for local domestic needs without royalty payments; corporation exclusion; area to municipalities for household use without profit

In order to provide for the supply of strictly local domestic needs for fuel, the Secretary of the Interior may, under such rules and regulations as he may prescribe in advance, issue limited licenses or permits to individuals or associations of individuals to prospect for, mine, and take for their use but not for sale, coal from the public lands without payment of royalty for the coal mined or the land occupied, on such conditions not inconsistent with this chapter as in his opinion will safeguard the public interests. This privilege shall not extend to any corporations. In the case of municipal corporations the Secretary of the Interior may issue such limited license or permit, for not to exceed three hundred and twenty acres for a municipality of less than one hundred thousand population, and not to exceed one thousand two hundred and eighty acres for a municipality of not less than one hundred thousand and not more than one hundred and fifty thousand population; and not to exceed two thousand five hundred and sixty acres for a municipality of one hundred and fifty thousand population or more, the land to be selected within the State wherein the municipal applicant may be located, upon condition that such municipal corporations will mine the coal therein under proper conditions and dispose of the same without profit to residents of such municipality for household use: *Provided*, That the acquisition or holding of a lease under sections 181, 201,

and 202 to 207 of this title shall be no bar to the holding of such tract or operation of such mine under said limited license.

(Feb. 25, 1920, ch. 85, § 8, 41 Stat. 440.)

REFERENCES IN TEXT

Section 204 of this title, included in reference to sections 202 to 207 of this title, was repealed by Pub. L. 94–377, § 13(a), Aug. 4, 1976, 90 Stat. 1090.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 208–1. Exploratory program for evaluation of known recoverable coal resources

(a) Authorization; purpose

The Secretary is authorized and directed to conduct a comprehensive exploratory program designed to obtain sufficient data and information to evaluate the extent, location, and potential for developing the known recoverable coal resources within the coal lands subject to this chapter. This program shall be designed to obtain the resource information necessary for determining whether commercial quantities of coal are present and the geographical extent of the coal fields and for estimating the amount of such coal which is recoverable by deep mining operations and the amount of such coal which is recoverable by surface mining operations in order to provide a basis for—

(1) developing a comprehensive land use plan pursuant to section 2;

(2) improving the information regarding the value of public resources and revenues which should be expected from leasing;

(3) increasing competition among producers of coal, or products derived from the conversion of coal, by providing data and information to all potential bidders equally and equitably;

(4) providing the public with information on the nature of the coal deposits and the associated stratum and the value of the public resources being offered for sale; and

(5) providing the basis for the assessment of the amount of coal deposits in those lands subject to this chapter under subparagraph (B) of section 201(a)(3) of this title.

(b) Seismic, geophysical, geochemical or stratigraphic drilling

The Secretary, through the United States Geological Survey, is authorized to conduct seismic, geophysical, geochemical, or stratigraphic drilling, or to contract for or purchase the results of such exploratory activities from commercial or other sources which may be needed to implement the provisions of this section.

(c) Exploratory drilling by party not under contract to United States; confidentiality of information prior to award of lease

Nothing in this section shall limit any person from conducting exploratory geophysical surveys including seismic, geophysical, chemical surveys to the extent permitted by section 201(b) of this title. The information obtained from the exploratory drilling carried out by a person not under contract with the United States Government for such drilling prior to award of a lease shall be provided the confidentiality pursuant to subsection (d) of this section.

(d) Availability to public of all data, information, maps, surveys; confidentiality of information purchased from commercial sources not under contract to United States prior to award of lease

The Secretary shall make available to the public by appropriate means all data, information, maps, interpretations, and surveys which are obtained directly by the Department of the Interior or under a service contract pursuant to subsection (b) of this section. The Secretary shall maintain a confidentiality of all proprietary data or information purchased from commercial sources while not under contract with the United States Government until after the areas involved have been leased.

(e) Information or data from Federal departments or agencies; confidentiality of proprietary information or data; utilization of Federal departments and agencies by agreement

All Federal departments or agencies are authorized and directed to provide the Secretary with any information or data that may be deemed necessary to assist the Secretary in implementing the exploratory program pursuant to this section. Proprietary information or data provided to the Secretary under the provisions of this subsection shall remain confidential for such period of time as agreed to by the head of the department or agency from whom the information is requested. In addition, the Secretary is authorized and directed to utilize the existing capabilities and resources of other Federal departments and agencies by appropriate agreement.

(f) Publication of geological and geophysical maps and reports of lands offered for lease

The Secretary is directed to prepare, publish, and keep current a series of detailed geological, and geophysical maps of, and reports concerning, all coal lands to be offered for leasing under this chapter, based on data and information compiled pursuant to this section. Such maps and reports shall be prepared and revised at reasonable intervals beginning eighteen months after the date of enactment of this Act. Such maps and reports shall be made available on a continuing basis to any person on request.

(g) Implementation plan for coal lands exploration program; development and transmittal to Congress; contents

Within six months after the date of enactment of this Act, the Secretary shall develop and transmit to Congress an implementation plan for the coal lands exploration program authorized by this section, including procedures for making the data and information available to the public pursuant to subsection (d) of this section, and maps and reports pursuant to subsection (f) of this section. The implementation plan shall include a projected schedule of exploratory activities and identification of the regions and areas which will be explored under the coal lands exploration program during the first five years following the enactment of this section. In addition, the implementation plan shall include estimates of the appropriations and staffing required to implement the coal lands exploration program.

(h) Stratigraphic drilling; scope; statement of results

The stratigraphic drilling authorized in subsection (b) of this section shall be carried out in such a manner as to obtain information pertaining to all recoverable reserves. For the purpose of complying with subsection (a) of this section, the Secretary shall require all those authorized to conduct stratigraphic drilling pursuant to subsection (b) of this section to supply a statement of the results of test boring of core sampling including logs of the drill holes; the thickness of the coal seams found; an analysis of the chemical properties of such coal; and an analysis of the strata layers lying above all the seams of coal. All drilling activities shall be conducted using the best current technology and practices.

(Feb. 25, 1920, ch. 85, § 8A, as added Aug. 4, 1976, Pub. L. 94-377, § 7, 90 Stat. 1087.)

REFERENCES IN TEXT

Section 2, referred to in subsec. (a)(1), means section 2 of act Feb. 25, 1920, as amended, and is comprised of subsecs. (a) to (d). Subsecs. (a) and (b) of section 2 comprise section 201 of this title, subsec. (c) of section 2 comprises section 202 of this title, and subsec. (d) of section 2, as added by section 5(b) of Pub. L. 94-377, comprises section 202a of this title.

The date of enactment of this Act, referred to in subsecs. (f) and (g), probably means the date of enactment of Pub. L. 94-377, which was approved Aug. 4, 1976.

§ 208-2. Report to Congress on leasing and production of coal lands; contents; recommendations; report by Attorney General on competition in coal industry and effectiveness of antitrust laws

Within six months after the end of each fiscal year, the Secretary shall submit to the Congress a report on the leasing and production of coal lands subject to this chapter during such fiscal year; a summary of management, supervision, and enforcement activities; and recommendations to the Congress for improvements in management, environmental safeguards, and amount of production in leasing and mining operations on coal lands subject to this chapter. Each submission shall also contain a report by the Attorney General of the United States on competition in the coal and energy industries, including an analysis of whether the antitrust provisions of this chapter and the antitrust laws are effective in preserving or promoting competition in the coal or energy industry.

(Feb. 25, 1920, ch. 85, § 8B, as added Aug. 4, 1976, Pub. L. 94-377, § 8, 90 Stat. 1089.)

REFERENCES IN TEXT

The antitrust laws, referred to in text, are classified principally to section 1 et seq. of Title 15, Commerce and Trade.

§ 208a. Mining coal adjacent to Alaska Railroad; purchases from two or more mines

In order to prevent monopoly and to insure the continuance of two or more operating coal mines in the Territory of Alaska adjacent to the Alaska Railroad, the general manager of the Alaska Railroad with the approval of the Secretary of the Interior is authorized to purchase coal annually for the railroad from two or more operating companies in that area at such reasonable price or prices as may be fixed and determined by said Secretary.

(July 19, 1932, ch. 513, 47 Stat. 707.)

CODIFICATION

Section was former classified to section 445a of Title 48, Territories and Insular Possessions.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

§ 209. Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production

The Secretary of the Interior, for the purpose of encouraging the greatest ultimate recovery of coal, oil, gas, oil shale, phosphate, sodium, potassium and sulfur, and in the interest of conservation of natural resources, is authorized to waive, suspend, or reduce the rental, or minimum royalty, or reduce the royalty on an entire leasehold, or on any tract or portion thereof segregated for royalty purposes, whenever in his judgment it is necessary to do so in order to promote development, or whenever in his judgment the leases cannot be successfully operated under the terms provided therein. In the event the Secretary of the Interior, in the interest of conservation, shall direct or shall assent to the suspension of operations and production under any lease granted under the terms of this chapter, any payment of acreage rental or of minimum royalty prescribed by such lease likewise shall be suspended during such period of suspension of operations and production; and the term of such lease shall be extended by adding any such suspension period thereto. The provisions of this section shall apply to all oil and gas leases issued under this chapter, including those within an approved or prescribed plan for unit or cooperative development and operation. Nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties.

(Feb. 25, 1920, ch. 85, § 39, as added Feb. 9, 1933, ch. 45, 47 Stat. 798, and amended Aug. 8, 1946, ch. 916, § 10, 60 Stat. 957; June 3, 1948, ch. 379, § 7, 62 Stat. 291; Aug. 4, 1976, Pub. L. 94-377, § 14, 90 Stat. 1091.)

AMENDMENTS

1976—Pub. L. 94-377 added provision that nothing in this section shall be construed as granting to the Secretary the authority to waive, suspend, or reduce advance royalties.

1948—Act June 3, 1948, extended applicability of section to oil shale, phosphate, sodium, potassium, and sulphur.

1946—Act Aug. 8, 1946, principally inserted the first and third sentences relating to waiver, suspension or reduction of royalties or rentals, and applicability of the section to cooperative or unit plans, respectively.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

SUBCHAPTER III—PHOSPHATES

§ 211. Phosphate deposits

(a) Authorization to lease land; terms and conditions; acreage

The Secretary of the Interior is authorized to lease to any applicant qualified under this chapter, through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, any phosphate deposits of the United States, and lands containing such deposits, including associated and related minerals, when in his judgment the public interest will be best served thereby. The lands shall be leased under such terms and conditions as are herein specified, in units reasonably compact in form of not to exceed two thousand five hundred and sixty acres.

(b) Prospecting permits; issuance; term; acreage; entitlement to lease

Where prospecting or exploratory work is necessary to determine the existence or workability of phosphate deposits in any unclaimed, undeveloped area, the Secretary of the Interior is authorized to issue, to any applicant qualified under this chapter, a prospecting permit which shall give the exclusive right to prospect for phosphate deposits, including associated minerals, for a period of two years, for not more than two thousand five hundred and sixty acres; and if prior to the expiration of the permit the permittee shows to the Secretary that valuable deposits of phosphate have been discovered within the area covered by his permit, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit.

(c) Extension of term of permit

Any phosphate permit issued under this section may be extended by the Secretary for such an additional period, not in excess of four years, as he deems advisable, if he finds that the permittee has been unable, with reasonable diligence, to determine the existence or workability of phosphate deposits in the area covered by the permit and desires to prosecute further prospecting or exploration, or for other reasons warranting such an extension in the opinion of the Secretary.

(Feb. 25, 1920, ch. 85, § 9, 41 Stat. 440; June 3, 1948, ch. 379, § 2, 62 Stat. 290; Mar. 18, 1960, Pub. L. 86-391, § 1(a), 74 Stat. 7.)

AMENDMENTS

1960—Pub. L. 86-391 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

1948—Act June 3, 1948, included provision limiting amount of land in lease.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213, 214 of this title; title 10 sections 7421, 7435.

§ 212. Surveys; royalties; time payable; annual rentals; term of leases; readjustment on renewals; minimum production; suspension of operation

Each lease shall describe the leased lands by the legal subdivisions of the public-land surveys. All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the Secretary of the Interior in advance of offering the same, at not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals. Royalties shall be due and payable as specified in the lease either monthly or quarterly on the last day of the month next following the month or quarter in which the minerals are sold or removed from the leased land. Each lease shall provide for the payment of a rental payable at the date of the lease and annually thereafter which shall be not less than 25 cents per acre for the first year, 50 cents per acre for the second and third years, respectively, and $1 per acre for each year thereafter, during the continuance of the lease. The rental paid for any year shall be credited against the royalties for that year. Leases shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable readjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss.

(Feb. 25, 1920, ch. 85, § 10, 41 Stat. 440; June 3, 1948, ch. 379, § 3, 62 Stat. 290.)

AMENDMENTS

1948—Act June 3, 1948, which amended section generally, omitted provisions relating to amount of lands in lease, and added provisions regarding royalties.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 213, 214 of this title; title 10 sections 7421, 7435.

§ 213. Royalties for use of deposits of silica, limestone, or other rock embraced in lease

Any lease to develop and extract phosphates, phosphate rock, and associated or related minerals under the provisions of sections 211 to 214 of this title shall provide that the lessee may use so much of any deposit of silica or limestone or other rock situated on any public lands embraced in the lease as may be utilized in the processing or refining of the phosphates, phosphate rock, and associated or related minerals mined from the leased lands or from other

lands upon payments of such royalty as may be determined by the Secretary of the Interior, which royalty may be stated in the lease or, as to the leases already issued, may be provided for in an attachment to the lease to be duly executed by the lessor and the lessee.

(Feb. 25, 1920, ch. 85, § 11, 41 Stat. 440; June 3, 1948, ch. 379, § 4, 62 Stat. 291.)

AMENDMENTS

1948—Act June 3, 1948, which amended section generally, omitted provision relating to royalties and annual rents, and inserted provisions relating to use of deposits of silica, limestone or other rock embraced in the lease upon the payment of a suitable royalty.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 214 of this title; title 10 sections 7421, 7435.

§ 214. Use of surface of other public lands; acreage; forest lands exception

The holder of any lease or permit issued under the provisions of sections 211 to 214 of this title shall have the right to use so much of the surface of unappropriated and unentered public lands not a part of his lease or permit, not exceeding eighty acres in area, as may be determined by the Secretary to be necessary or convenient for the extraction, treatment, and removal of the mineral deposits, but this provision shall not be applicable to national forest lands.

(Feb. 25, 1920, ch. 85, § 12, 41 Stat. 441; June 3, 1948, ch. 379, § 5, 62 Stat. 291; Mar. 18, 1960, Pub. L. 86-391, § 1(b), 74 Stat. 8.)

AMENDMENTS

1960—Pub. L. 86-391 substituted "lease or permit" for "lease" in two instances.

1948—Act June 3, 1948, increased lands to be used from 40 to 80 acres, excepted national forest lands from its provisions, and substituted "The holder of any lease issued under the provisions of sections 211 to 214 of this title", "public lands not a part of his lease", and "or convenient for the extraction" for "Any qualified applicant to whom the Secretary of the Interior may grant a lease to develop and extract phosphates, or phosphate rock, under the provisions of this chapter", "lands", and "for the proper prospecting for or development, extraction", respectively.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 213 of this title; title 10 sections 7421, 7435.

SUBCHAPTER IV—OIL AND GAS

§§ 221 to 222i. Omitted

CODIFICATION

Sections are omitted as having expired by their own terms. They provided as follows:

Section 221, acts Feb. 25, 1920, ch. 85, § 13, 41 Stat. 441; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 674, provided for prospecting permits, their terms and conditions, extension, location of lands, marking land, notice of application for permits, permits in Alaska, exchanging permits for leases, and limited extensions to Dec. 31, 1938.

Section 222, act Jan. 11, 1922, ch. 28, 42 Stat. 356, authorized Secretary of the Interior to extend time for drilling not to exceed three years.

Section 222a, act Apr. 5, 1926, ch. 107, § 1, 44 Stat. 236, authorized a further extension of two years for drilling.

Section 222b, act Apr. 5, 1926, ch. 107, § 2, 44 Stat. 236, provided for extension of expired permits for a period of two years from Apr. 5, 1926.

Section 222c, act Mar. 9, 1928, ch. 168, § 1, 45 Stat. 252, authorized a two year extension for permits.

Section 222d, act Mar. 9, 1928, ch. 168, § 2, 45 Stat. 252, authorized a two year extension of permits already expired.

Section 222e, act Jan. 23, 1930, ch. 25, § 1, 46 Stat. 58, provided that permits issued or extended for three years might be further for three years.

Section 222f, act Jan. 23, 1930, ch. 25, § 2, 46 Stat. 59, provided for an extension of permits already expired for a period of three years from Jan. 23, 1930.

Section 222g, act June 30, 1932, ch. 319, § 1, 47 Stat. 445, provided for a further extension of three years.

Section 222h, act June 30, 1932, ch. 319, § 2, 47 Stat. 446, authorized an extension, for permits already expired, of three years from June 30, 1932.

Section 222i, acts Aug. 26, 1937, ch. 828, 50 Stat. 842; Aug. 11, 1939, ch. 716, 53 Stat. 1418, provided for final extension of prospecting permits, outstanding on Dec. 31, 1937, to Dec. 31, 1939.

COMPROMISE OF CLAIMS FOR ACCRUED RENTAL

Act July 29, 1942, ch. 534, § 2, 56 Stat. 726, authorized Secretary of the Interior to make a compromise settlement of any claim for accrued rental under a lease issued pursuant to the provisions of section 221 of this title, in any case in which he determined that it would be financially beneficial to the United States to make such a compromise settlement or in any case in which he determined that collection of the full amount of such accrued rental from the lessee was inadvisable because of the lessee's financial resources being limited.

§ 223. Leases; amount and survey of land; term of lease; royalties and annual rental

Upon establishing to the satisfaction of the Secretary of the Interior that valuable deposits of oil or gas have been discovered within the limits of the land embraced in any permit, the permittee shall be entitled to a lease for one-fourth of the land embraced in the prospecting permit: *Provided*, That the permittee shall be granted a lease for as much as one hundred and sixty acres of said lands, if there be that number of acres within the permit. The area to be selected by the permittee, shall be in reasonably compact form and, if surveyed, to be described by the legal subdivisions of the public-land surveys; if unsurveyed, to be surveyed by the Government at the expense of the applicant for lease in accordance with rules and regulations to be prescribed by the Secretary of the Interior, and the lands leased shall be conformed to and taken in accordance with the legal subdivisions of such surveys; deposits made to cover expense of surveys shall be deemed appropriated for that purpose, and any excess deposits may be repaid to the person or persons making such deposit or their legal representatives. Such leases shall be for a term of twenty years upon a royalty of 5 per centum in amount or value of the production and the annual payment in advance of a rental of $1 per acre, the rental paid for any one year to be credited against the royalties as they accrue for

that year, and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935. The permittee shall also be entitled to a preference right to a lease for the remainder of the land in his prospecting permit at a royalty of not less than 12½ per centum in amount or value of the production nor more than the royalty rate prescribed by regulation in force on January 1, 1935, for secondary leases issued under this section, and under such other conditions as are fixed for oil or gas leases issued under section 226 of this title the royalty to be determined by competitive bidding or fixed by such other method as the Secretary may by regulations prescribe: *Provided further*, That the Secretary shall have the right to reject any or all bids.

(Feb. 25, 1920, ch. 85, § 14, 41 Stat. 442; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 676.)

AMENDMENTS

1935—Act Aug. 21, 1935, inserted "reasonably" before "compact form" and substituted "and shall continue in force otherwise as prescribed in section 226 of this title for leases issued prior to August 21, 1935" and "oil or gas leases issued under section 226 of this title" for "with the right of renewal as prescribed in section 226 of this title" and "oil or gas leases in this chapter", respectively.

LIMITATION OF ROYALTY ON DISCOVERIES DURING WAR PERIOD

Act Dec. 24, 1942, ch. 812, 56 Stat. 1080, limiting royalty obligation of oil or gas lessee who drills well resulting in discovery of new deposit on public domain during the national emergency was repealed by Joint Res. July 25, 1947, ch. 327, § 1, 61 Stat. 449.

OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

Suspension, waiver, or reduction of rents or royalties to promote development or operation; extension of lease on suspension of operations and production, see section 209 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 229, 236a of this title; title 10 sections 7421, 7435.

§ 223a. Repealed. Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958

Section, act Aug. 21, 1935, ch. 599, § 2, 49 Stat. 679, related to new oil and gas leases in lieu of old.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

§ 224. Payments for oil or gas taken prior to application for lease

Until the permittee shall apply for lease to the one quarter of the permit area heretofore provided for he shall pay to the United States 20 per centum of the gross value of all oil or gas secured by him from the lands embraced within his permit and sold or otherwise disposed of or held by him for sale or other disposition.

(Feb. 25, 1920, ch. 85, § 15, 41 Stat. 442.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 225. Condition of lease, forfeiture for violation

All leases of lands containing oil or gas, made or issued under the provisions of this chapter, shall be subject to the condition that the lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land, or the entrance of water through wells drilled by him to the oil sands or oil-bearing strata, to the destruction or injury of the oil deposits. Violations of the provisions of this section shall constitute grounds for the forfeiture of the lease, to be enforced as provided in this chapter.

(Feb. 25, 1920, ch. 85, § 16, 41 Stat. 443; Aug. 8, 1946, ch. 916, § 2, 60 Stat. 951.)

AMENDMENTS

1946—Act Aug. 8, 1946, omitted the condition that no wells should be drilled within two hundred feet of the boundaries of the leased lands.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

OUTER CONTINENTAL SHELF; TERMS AND CONDITIONS OF LEASES

Terms and conditions of mineral leases on submerged lands of outer Continental Shelf, see section 1337 of Title 43, Public Lands.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 226. Lease of oil and gas lands

(a) Authority of Secretary

All lands subject to disposition under this chapter which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(b) Lands within known geologic structure of a producing oil or gas field; competitive bidding

If the lands to be leased are within any known geological structure of a producing oil or gas field, they shall be leased to the highest responsible qualified bidder by competitive bidding under general regulations in units of not more than six hundred and forty acres, which shall be as nearly compact in form as possible, upon the payment by the lessee of such bonus as may be accepted by the Secretary and of such royalty as may be fixed in the lease, which shall be not less than 12½ per centum in amount or value of the production removed or sold from the lease.

(c) Lands not within geologic structure of a producing oil or gas field; first qualified applicant

If the lands to be leased are not within any known geological structure of a producing oil or gas field, the person first making application for the lease who is qualified to hold a lease under this chapter shall be entitled to a lease of

such lands without competitive bidding. Such leases shall be conditioned upon the payment by the lessee of a royalty of 12½ per centum in amount or value of the production removed or sold from the lease.

(d) Annual rentals

All leases issued under this section shall be conditioned upon payment by the lessee of a rental of not less than 50 cents per acre for each year of the lease. Each year's lease rental shall be paid in advance. A minimum royalty of $1 per acre in lieu of rental shall be payable at the expiration of each lease year beginning on or after a discovery of oil or gas in paying quantities on the lands leased.

(e) Primary terms

Competitive leases issued under this section shall be for a primary term of five years and noncompetitive leases for a primary term of ten years. Each such lease shall continue so long after its primary term as oil or gas is produced in paying quantities. Any lease issued under this section for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(f) Termination

No lease issued under this section which is subject to termination because of cessation of production shall be terminated for this cause so long as reworking or drilling operations which were commenced on the land prior to or within sixty days after cessation of production are conducted thereon with reasonable diligence, or so long as oil or gas is produced in paying quantities as a result of such operations. No lease issued under this section shall expire because operations or production is suspended under any order, or with the consent, of the Secretary. No lease issued under this section covering lands on which there is a well capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than sixty days after notice by registered or certified mail, within which to place such well in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this chapter.

(g) Drainage agreements; primary term of lease, extension; report to Congress

Whenever it appears to the Secretary that lands owned by the United States are being drained of oil or gas by wells drilled on adjacent lands, he may negotiate agreements whereby the United States, or the United States and its lessees, shall be compensated for such drainage. Such agreements shall be made with the consent of the lessees, if any, affected thereby. If such agreement is entered into, the primary term of any lease for which compensatory royalty is being paid, or any extension of such primary term, shall be extended for the period during which such compensatory royalty is paid and for a period of one year from discontinuance of such payment and so long thereafter as oil or gas is produced in paying quantities. The Secretary shall report to Congress at the beginning of each regular session all such agreements entered into during the previous year which involve unleased Government lands.

(h) Mining claims; suspension of running time of lease

If, during the primary term or any extended term of any lease issued under this section, a verified statement is filed by any mining claimant pursuant to subsection (c) of section 527 of this title, whether such filing occur prior to September 2, 1960 or thereafter, asserting the existence of a conflicting unpatented mining claim or claims upon which diligent work is being prosecuted as to any lands covered by the lease, the running of time under such lease shall be suspended as to the lands involved from the first day of the month following the filing of such verified statement until a final decision is rendered in the matter.

(i) Exchange of leases; conditions

The Secretary of the Interior shall, upon timely application therefor, issue a new lease in exchange for any lease issued for a term of twenty years, or any renewal thereof, or any lease issued prior to August 8, 1946, in exchange for a twenty-year lease, such new lease to be for a primary term of five years and so long thereafter as oil or gas is produced in paying quantities and at a royalty rate of not less than 12½ per centum in amount of value of the production removed or sold from such leases, except that the royalty rate shall be 12½ per centum in amount or value of the production removed or sold from said leases as to (1) such leases, or such parts of the lands subject thereto and the deposits underlying the same, as are not believed to be within the productive limits of any producing oil or gas deposit, as such productive limits are found by the Secretary to have existed on August 8, 1946; and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved cooperative or unit plan of development or operation from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such plan, and which is determined by the Secretary to be a new deposit, where such lease, or a lease for which it is exchanged, was included in such plan at the time of discovery or was included in a duly executed and filed application for the approval of such plan at the time of discovery.

(j) Cooperative or unit plan; authority of Secretary of the Interior to alter or modify; communitization or drilling agreements; term of lease, conditions; Secretary to approve operating, drilling or development contracts, and subsurface storage

For the purpose of more properly conserving the natural resources of any oil or gas pool, field, or like area, or any part thereof (whether or not any part of said oil or gas pool, field, or like area, is then subject to any cooperative or unit plan of development or operation), lessees

thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever determined and certified by the Secretary of the Interior to be necessary or advisable in the public interest. The Secretary is thereunto authorized, in his discretion, with the consent of the holders of leases involved, to establish, alter, change, or revoke drilling, producing, rental, minimum royalty, and royalty requirements of such leases and to make such regulations with reference to such leases, with like consent on the part of the lessees, in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure the proper protection of the public interest. The Secretary may provide that oil and gas leases hereafter issued under this chapter shall contain a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

Any plan authorized by the preceding paragraph which includes lands owned by the United States may, in the discretion of the Secretary, contain a provision whereby authority is vested in the Secretary of the Interior, or any such person, committee, or State or Federal officer or agency as may be designated in the plan, to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control under the provisions of any section of this chapter.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary of the Interior to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each such lease committed thereto.

Any lease issued for a term of twenty years, or any renewal thereof, or any portion of such lease that has become the subject of a cooperative or unit plan of development or operation of a pool, field, or like area, which plan has the approval of the Secretary of the Interior, shall continue in force until the termination of such plan. Any other lease issued under any section of this chapter which has heretofore or may hereafter be committed to any such plan that contains a general provision for allocation of oil or gas shall continue in force and effect as to the land committed so long as the lease remains subject to the plan: *Provided,* That production is had in paying quantities under the plan prior to the expiration date of the term of such lease. Any lease heretofore or hereafter committed to any such plan embracing lands that are in part within and in part outside of the area covered by any such plan shall be segregated into separate leases as to the lands committed and the lands not committed as of the effective date of unitization: *Provided, however,* That any such lease as to the nonunitized portion shall continue in force and effect for the term thereof but for not less than two years from the date of such segregation and so long thereafter as oil or gas is produced in paying quantities. The minimum royalty or discovery rental under any lease that has become subject to any cooperative or unit plan of development or operation, or other plan that contains a general provision for allocation of oil or gas, shall be payable only with respect to the lands subject to such lease to which oil or gas shall be allocated under such plan. Any lease which shall be eliminated from any such approved or prescribed plan, or from any communitization or drilling agreement authorized by this section, and any lease which shall be in effect at the termination of any such approved or prescribed plan, or at the termination of any such communitization or drilling agreement, unless relinquished, shall continue in effect for the original term thereof, but for not less than two years, and so long thereafter as oil or gas is produced in paying quantities.

The Secretary of the Interior is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of oil or gas leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require it or the interests of the United States may be best subserved thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under the provisions of this chapter.

The Secretary of the Interior, to avoid waste or to promote conservation of natural resources, may authorize the subsurface storage of oil or gas, whether or not produced from federally owned lands, in lands leased or subject to lease under this chapter. Such authorization may provide for the payment of a storage fee or rental on such stored oil or gas or, in lieu of such fee or rental, for a royalty other than that prescribed in the lease when such stored oil or gas is produced in conjunction with oil or gas not previously produced. Any lease on which storage is so authorized shall be extended at least for the period of storage and so long thereafter as oil or gas not previously produced is produced in paying quantities.

(Feb. 25, 1920, ch. 85, § 17, 41 Stat. 443; July 3, 1930, ch. 854, § 1, 46 Stat. 1007; Mar. 4, 1931, ch. 506, 46 Stat. 1523; Aug. 21, 1935, ch. 599, § 1, 49 Stat. 676; Aug. 8, 1946, ch. 916, § 3, 60 Stat. 951; July 29, 1954, ch. 644, § 1(1)–(3), 68 Stat. 583; June 11, 1960, Pub. L. 86-507, § 1(21), 74 Stat. 201; Sept. 2, 1960, Pub. L. 86-705, § 2, 74 Stat. 781.)

AMENDMENTS

1960—Pub. L. 86-705 generally amended this section and sections 226d and 226e of this title, combining all three sections and subdividing the provisions into subsections (a) to (j) of this section. Among other changes were: the substitution of a fixed 10-year term for a renewable 5-year term for noncompetitive leases, the addition of subsec. (h) provisions with respect to the running of time against a lease during a contest of the claim, an increase in the minimum yearly rentals from 25 to 50 cents an acre, and the elimination of provisions that permitted a waiver of second-year and third-year rentals in certain situations.

Pub. L. 86-507 authorized notice of withdrawal to be given by certified mail.

1954—Act July 29, 1954, in second par., provided, that no lease shall terminate for nonproduction (1) if reworking or drilling operations are begun within 60 days after cessation of production, (2) if cessation of production is by order or with consent of the Secretary of the Interior, or (3) unless the lessee is given a reasonable time of at least 60 days to place a well, capable of producing paying quantities of oil or gas, on a producing status.

Act July 29, 1954, in third par., made sure that if a lessee seasonably applies for an extension of the initial five-year term of the lease he will be given such extension for either 5 years or 2 years, depending on whether or not the land is in a producing structure.

Act July 29, 1954, in fifth par., provided that the primary term of a lease which is effected by an agreement under which the United States received compensatory royalty remains in full force and effect for 1 year following discontinuance of compensatory royalty payments.

1946—Act Aug. 8, 1946, principally substituted, with respect to the leasing of lands not within a known geological structure of a producing oil or gas field, a royalty rate of 12½ per cent without further provision as to lease terms or quality of production; substituted a minimum royalty of $1 per acre per annum after discovery for the advance rental of not less than 25 cents per acre per annum required prior to discovery; provided that all leases shall be for a primary term of 5 years which shall continue thereafter for so long as oil or gas is produced in paying quantities, and that leases, with certain exceptions, shall be subject to one renewal for 5 years, and, if not subject to renewal, shall extend for an additional 2 years if diligent operations are in progress at the lease expiration date.

1935—Act Aug. 21, 1935, amended section generally.

1931—Act Mar. 4, 1931, amended section generally.

1930—Act July 3, 1930, amended section generally.

SAVINGS PROVISIONS

Section 8 of Pub. L. 86-705 provided that: "No amendment made by this Act [see Short Title of 1960 Amendment note set out under section 181 of this title] shall affect any valid right in existence on the effective date [Sept. 2, 1960] of the Mineral Leasing Act Revision of 1960."

Savings provisions, see note under section 181 of this title.

REINSTATEMENT AND EXTENSION OF CERTAIN TEN-YEAR OIL AND GAS LEASES

Act July 14, 1952, ch. 742, 66 Stat. 630, provided: "That any lease issued for a ten-year term in exchange for an oil and gas prospecting permit pursuant to sections 13 and 17 of the Act entitled 'An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the puolic domain', approved February 25, 1920, as amended by the Act of August 21, 1935 (49 Stat. 674) [sections 221 and 226, respectively, of this title], and prior to amendment by the Act of August 8, 1946 [act Aug. 8, 1946, ch. 916, § 3, 60 Stat. 951], and upon which drilling operations were being diligently prosecuted on the expiration date of such lease, prior to the effective date of this Act [July 14, 1952], is hereby reinstated effective from the expiration date of the lease and shall continue in effect for a period of two years after the effective date of this Act [July 14, 1952] and so long thereafter as oil or gas is produced in paying quantities, if, within ninety days after the enactment of this Act [July 14, 1952], payment is made, under the terms of such lease as reinstated and extended, of any sums due the United States for prior years. This Act shall not be applicable to any lands which, subsequent to such expiration and prior to the enactment of this Act [July 14, 1952], have been withdrawn from leasing, leased, or otherwise disposed of."

OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

Wind River Indian Reservation oil or gas leases, see note set out under section 611 of Title 25, Indians.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 188, 223, 236a of this title; title 10 sections 7421, 7435.

§ 226-1. Expiration and extension of noncompetitive oil or gas leases

(a) Lands not withdrawn from leasing

Upon the expiration of the initial five-year term of any noncompetitive oil or gas lease which was issued prior to September 2, 1960 and which has been maintained in accordance with applicable statutory requirements and regulations, the record titleholder thereof shall be entitled to a single extension of the lease, unless then otherwise provided by law, for such lands covered by it as are not, on the expiration date of the lease, withdrawn from leasing. A withdrawal, however, shall not affect the right to an extension if actual drilling operations on such lands were commenced prior to the effective date of the withdrawal and were being diligently prosecuted on the expiration date of the lease. No withdrawal shall be effective within the meaning of this section until ninety days after notice thereof has been sent by registered or certified mail to each lessee to be affected by such withdrawal.

(b) Known and unknown geologic structures of producing fields

As to lands not within the known geologic structure of a producing oil or gas field, a noncompetitive oil or gas lease to which this section is applicable shall be extended for a period of five years and so long thereafter as oil or gas is produced in paying quantities. As to lands within the known geologic structure of a producing oil or gas field, a noncompetitive lease to which this section is applicable shall be extended for a period of two years and so long thereafter as oil or gas is produced in paying quantities.

(c) Application requirement

Any noncompetitive oil or gas lease extended under this section shall be subject to the rules and regulations in force at the expiration of the initial five-year term of the lease. No extension shall be granted, however, unless within a period of ninety days prior to the expiration date of the lease an application therefor is filed

by the record titleholder or an assignee whose assignment has been filed for approval or an operator whose operating agreement has been filed for approval.

(d) Cooperative or unit plan leases

Any lease issued prior to September 2, 1960 which has been maintained in accordance with applicable statutory requirements and regulations and which pertains to land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for two years and so long thereafter as oil or gas is produced in paying quantities.

(Pub. L. 86-705, § 4, Sept. 2, 1960, 74 Stat. 789.)

CODIFICATION

Section was enacted as a part of Mineral Leasing Act Revision of 1960 and not as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

§ 226-2. Limitations for filing oil and gas contests

No action contesting a decision of the Secretary involving any oil and gas lease shall be maintained unless such action is commenced or taken within ninety days after the final decision of the Secretary relating to such matter. No such action contesting such a decision of the Secretary rendered prior to September 2, 1960 shall be maintained unless the same be commenced or taken within ninety days after September 2, 1960.

(Feb. 25, 1920, ch. 85, § 42, as added Sept. 2, 1960, Pub. L. 86-705, § 5, 74 Stat. 790.)

§§ 226a, 226b. Repealed. Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958

Section 226a, act July 8, 1940, ch. 548, 54 Stat. 742, related to lease of lands not within known productive field and is covered by section 226 of this title.

Section 226b, acts July 29, 1942, ch. 534, § 1, 56 Stat. 726; Dec. 22, 1943, ch. 376, 57 Stat. 608; Sept. 27, 1944, ch. 429, 58 Stat. 755; Nov. 30, 1945, ch. 495, 59 Stat. 587, related to preference right to new oil and gas lease upon expiration of five-year non-competitive oil and gas lease, and is covered by section 226 of this title.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

§ 226c. Reduction of royalties under existing leases

From and after August 8, 1946, the royalty obligation to the United States under all leases requiring payment of royalty in excess of 12½ per centum, except leases issued or to be issued upon competitive bidding, is reduced to 12½ per centum in amount or value of production removed or sold from said leases as to (1) such leases, or such part of the lands subject thereto, and the deposits underlying the same, as are not believed to be within the productive limits of any oil or gas deposit, as such productive limits are found by the Secretary to exist on August 8, 1946, and (2) any production on a lease from an oil or gas deposit which was discovered after May 27, 1941, by a well or wells drilled within the boundaries of the lease, and which is determined by the Secretary to be a new deposit; and (3) any production on or allocated to a lease pursuant to an approved unit or cooperative agreement from an oil or gas deposit which was discovered after May 27, 1941, on land committed to such agreement, and which is determined by the Secretary to be a new deposit, where such lease was included in such agreement at the time of discovery, or was included in a duly executed and filed application for the approval of such agreement at the time of discovery.

(Aug. 8, 1946, ch. 916, § 12, 60 Stat. 957.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

OUTER CONTINENTAL SHELF; REFUNDS ON MINERAL-LEASE PAYMENTS

Refunds of excess payments with respect to oil, gas, and other leases on submerged lands of outer Continental Shelf, see section 1339 of Title 43, Public Lands.

§§ 226d, 226e. Omitted

CODIFICATION

Sections were completely amended by Pub. L. 86-705, § 2, Sept. 2, 1960, 74 Stat. 781, and included in section 17 of Mineral Leasing Act of Feb. 25, 1920, classified to section 226 of this title.

Section 226d, act Feb. 25, 1920, ch. 85, § 17a, as added Aug. 8, 1946, ch. 916, § 4, 60 Stat. 952, provided for the exchange of leases and fixed royalty rates for new leases.

Section 226e, act Feb. 25, 1920, ch. 85, § 17b, as added Aug. 8, 1946, ch. 916, § 5, 60 Stat. 952, and amended July 29, 1954, ch. 644, § 1(4), (5), 68 Stat. 585, permitted establishment of cooperative or unit plans, setting up procedures for regulating production, approving contracts and preventing waste.

§ 227. Omitted

CODIFICATION

Section, acts Feb. 25, 1920, ch. 85, § 18, 41 Stat. 443; Feb. 25, 1928, ch. 104, 45 Stat. 148, which authorized the United States to issue leases for a period of twenty years to persons who relinquished all rights claimed or possessed prior to July 3, 1910 under preexisting placer mining law provided relinquishment was filed in the General Land Office within six months after February 25, 1920, was omitted from the Code as obsolete.

§ 228. Prospecting permits and leases to persons of lands not withdrawn; terms and conditions of; fraud of claimants

Any person who on October 1, 1919, was a bona fide occupant or claimant of oil or gas lands under a claim initiated while such lands were not withdrawn from oil or gas location and entry, and who had previously performed all acts under then existing laws necessary to valid locations thereof except to make discovery, and upon which discovery had not been made prior to February 25, 1920, and who has performed work or expended on or for the benefit of such locations an amount equal in

the aggregate of $250 for each location if application therefor shall be made within six months from February 25, 1920, shall be entitled to prospecting permits thereon upon the same terms and conditions, and limitations as to acreage, as other permits provided for in this chapter, or where any such person has made such discovery, prior to said February 25, 1920, he shall be entitled to a lease thereon under such terms as the Secretary of the Interior may prescribe unless otherwise provided for in section 227 of this title: *Provided,* That where such prospecting permit is granted upon land within any known geologic structure of a producing oil or gas field, the royalty to be fixed in any lease thereafter granted thereon or any portion thereof shall be not less than 12½ percentum of all the oil or gas produced except oil or gas used for production purposes on the claim, or unavoidably lost: *Provided, however,* That the provisions of this section shall not apply to lands reserved for the use of the Navy. No claimant for a permit or lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith shall be entitled to any of the benefits of this section.

All permits or leases hereunder shall inure to the benefit of the claimant and all persons claiming through or under him by lease, contract, or otherwise, as their interests may appear.

(Feb. 25, 1920, ch. 85, § 19, 41 Stat. 445.)

REFERENCES IN TEXT

Section 227 of this title, referred to in text, was omitted from the Code as obsolete.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 229. Preference right to permits or leases of claimants of lands bona fide entered as agricultural land; terms and conditions

In the case of lands bona fide entered as agricultural, and not withdrawn or classified as mineral at the time of entry, but not including lands claimed under any railroad grant, the entryman or patentee, or assigns, where assignment was made prior to January 1, 1918, if the entry has been patented with the mineral right reserved, shall be entitled to a preference right to a permit and to a lease, as herein provided, in case of discovery; and within an area not greater than a township such entryman and patentees, or assigns holding restricted patents may combine their holdings, not to exceed two thousand five hundred and sixty acres for the purpose of making joint application. Leases executed under this section and embracing only lands so entered shall provide for the payment of a royalty of not less than 12½ per centum as to such areas within the permit as may not be included within the discovery lease to which the permittee is entitled under section 223 of this title.

(Feb. 25, 1920, ch. 85, § 20, 41 Stat. 445.)

CROSS REFERENCES

Lands withdrawn or classified as mineral, see section 121 of this title.

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§ 229a. Water struck while drilling for oil and gas

(a) Acquisition; condition in lease

All prospecting permits and leases for oil or gas made or issued under the provisions of this chapter shall be subject to the condition that in case the permittee or lessee strikes water while drilling instead of oil or gas, the Secretary of the Interior may, when such water is of such quality and quantity as to be valuable and usable at a reasonable cost for agricultural, domestic, or other purposes, purchase the casing in the well at the reasonable value thereof to be fixed under rules and regulations to be prescribed by the Secretary.

(b) Prior leases

In cases where water wells producing such water have heretofore been or may hereafter be drilled upon lands embraced in any prospecting permit or lease heretofore issued under this chapter, the Secretary may in like manner purchase the casing in such wells.

(c) Disposition

The Secretary may make such purchase and may lease or operate such wells for the purpose of producing water and of using the same on the public lands or of disposing of such water for beneficial use on other lands, and where such wells have heretofore been plugged or abandoned or where such wells have been drilled prior to the issuance of any permit or lease by persons not in privity with the permittee or lessee, the Secretary may develop the same for the purposes of this section: *Provided,* That owners or occupants of lands adjacent to those upon which such water wells may be developed shall have a preference right to make beneficial use of such water.

(d) Revolving fund

The Secretary may use so much of any funds available for the plugging of wells as he may find necessary to start the program provided for by this section, and thereafter he may use the proceeds from the sale or other disposition of such water as a revolving fund for the continuation of such program, and such proceeds are hereby appropriated for such purpose.

(e) Operations under lease not restricted

Nothing in this section shall be construed to restrict operations under any oil or gas lease or permit under any other provisions of this chapter.

(Feb. 25, 1920, ch. 85, § 40, as added June 16, 1934, ch. 557, 48 Stat. 977, and amended Oct. 21, 1976, Pub. L. 94-579, title VII, § 704(a), 90 Stat. 2792.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-579 struck out proviso relating to reservation of land as a water hole under section 300 of title 43.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 704(a) of Pub. L. 94-579 provided in part that this section is amended effective on and after Oct. 21, 1976.

SAVINGS PROVISIONS

Amendment by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a Savings Provisions note under section 1701 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

§§ 230 to 233. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576

Section 230, act Mar. 4, 1923, ch. 249, § 1, 42 Stat. 1448, authorized permits and leases for certain in Oklahoma.

Section 231, act Mar. 4, 1923, ch. 249, § 2, 42 Stat. 1448, required applications for permits and leases to be made not later than sixty days after Mar. 4, 1923.

Section 232, act Mar. 4, 1923, ch. 249, § 3, 42 Stat. 1448, limited the amount of land any one person or corporation could be granted.

Section 233, act Mar. 4, 1923, ch. 249, § 4, 42 Stat. 1448, provided for payment of royalties to the United States.

SAVINGS PROVISIONS

Section 3 of act June 22, 1948, repealed sections 230 to 233 and 234 to 236 of this title "except as to existing valid rights".

§ 233a. Permits or leases of certain lands in Oklahoma; retention of royalties

The Secretary of the Interior is directed to retain in his custody until otherwise directed by law the 12½ per centum and other royalties heretofore or hereafter received by him in pursuance of section 233 of this title.

(Mar. 4, 1925, ch. 550, § 2, 43 Stat. 1302.)

REFERENCES IN TEXT

Section 233 of this title, referred to in text, was repealed by act June 22, 1948, ch. 605, § 3, 62 Stat. 576.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

§§ 234 to 236. Repealed. June 22, 1948, ch. 605, § 3, 62 Stat. 576

Section 234, act Mar. 4, 1923, ch. 249, § 5, 42 Stat. 1449, provided for application of other laws to leases and permits granted under sections 230 to 233 and 234 to 236 of this title, and for the disposition of lands and deposits remaining unappropriated and undisposed of.

Section 235, act Mar. 4, 1923, ch. 249, § 6, 42 Stat. 1449, prohibited interference with certain lands in possession of receivers appointed by the Supreme Court.

Section 236, act Mar. 4, 1923, ch. 249, § 7, 42 Stat. 1450, authorized the promulgation of rules and regulations necessary to accomplish the purposes of sections 230 to 233 and 234 to 236 of this title.

SAVINGS PROVISIONS

Section 3 of act June 22, 1948, repealed sections 230 to 233 and 234 to 236 of this title "except as to existing valid rights".

§ 236a. Lands in naval petroleum reserves and naval oil-shale reserves; effect of other laws

Nothing in sections 185, 221, 223, 223a, and 226 of this title and this section shall be construed as affecting any lands within the borders of the naval petroleum reserves and naval oil-shale reserves or agreements concerning operations thereunder or in relation to the same, but the Secretary of the Navy is hereby authorized, with the consent of the President, to enter into agreements such as those provided for under sections 184 and 226 of this title, which agreement shall not, unless expressed therein, operate to extend the terms of any lease affected thereby.

(Aug. 21, 1935, ch. 599, § 3, 49 Stat. 679.)

REFERENCES IN TEXT

Section 221 of this title, referred to in text, was omitted from the Code as executed.

Section 223a of this title, referred to in the text, was repealed by act Aug. 8, 1946, ch. 916, § 14, 60 Stat. 958.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

CROSS REFERENCES

Jurisdiction over naval petroleum reserves, see section 7421 of Title 10, Armed Forces.

§ 236b. Existing leases within naval petroleum reserves not affected

Nothing in this act shall be construed as affecting existing leases within the borders of the naval petroleum reserves, or agreements concerning operations thereunder or in relation thereto.

(Aug. 8, 1946, ch. 916, § 13, 60 Stat. 958; Aug. 10, 1956, ch. 1041, § 53, 70A Stat. 675.)

REFERENCES IN TEXT

"This Act", referred to in text, is act Aug. 8, 1946, ch. 916, 60 Stat. 950, which is classified generally to sections 181, 184, 187a, 187b, 188, 193, 209, 226 to 226e, 236b, and 285 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises subchapters I to VII of this chapter.

AMENDMENTS

1956—Act Aug. 10, 1956, repealed the portion of this section following "thereto" which authorized the Secretary of the Navy, with the consent of the President, to enter into agreements such as those provided for in section 236e of this title, which agreements, should not, unless expressed therein, operate to extend the term of any lease affected thereby.

CROSS REFERENCES

Cooperative or unit plans in the naval petroleum reserves, see section 7427 of Title 10, Armed Forces.

SUBCHAPTER V—OIL SHALE

§ 241. Leases of lands

(a) Authorization; survey; terms, royalties and annual rentals; readjustments on renewals; rights of existing claimants; fraud of claimants

The Secretary of the Interior is hereby authorized to lease to any person or corporation qualified under this chapter any deposits of oil shale, native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) belonging to the United States and the surface of so much of the public lands containing such deposits, or land adjacent thereto, as may be required for the extraction and reduction of the leased minerals, under such rules and regulations, not inconsistent with this chapter, as he may prescribe. No lease hereunder shall exceed five thousand one hundred and twenty acres of land, to be described by the legal subdivisions of the public-land surveys, or if unsurveyed, to be surveyed by the United States, at the expense of the applicant, in accordance with regulations to be prescribed by the Secretary of the Interior. Leases may be for indeterminate periods, upon such conditions as may be imposed by the Secretary of the Interior, including covenants relative to methods of mining, prevention of waste, and productive development. For the privilege of mining, extracting, and disposing of the oil or other minerals covered by a lease under this section the lessee shall pay to the United States such royalties as shall be specified in the lease and an annual rental, payable at the beginning of each year, at the rate of 50 cents per acre per annum, for the lands included in the lease, the rental paid for any one year to be credited against the royalties accruing for that year; such royalties to be subject to readjustment at the end of each twenty-year period by the Secretary of the Interior. For the purpose of encouraging the production of petroleum products from shales the Secretary may, in his discretion, waive the payment of any royalty and rental during the first five years of any lease. Any person having a valid claim to such minerals under existing laws on January 1, 1919, shall, upon the relinquishment of such claim, be entitled to a lease under the provisions of this section for such area of the land relinquished as shall not exceed the maximum area authorized by this section to be leased to an individual or corporation. No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section. Not more than one lease shall be granted under this section to any one person, association, or corporation except that with respect to leases for native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) no person, association, or corporation shall acquire or hold more than seven thousand six hundred eighty acres in any one State without respect to the number of leases.

(b) Offer for lease; deposits other than oil shale; questioned validity because of location; preference rights

If an offer for a lease under the provisions of this section for deposits other than oil shale is based upon a mineral location, the validity of which might be questioned because the claim was based on a placer location rather than on a lode location, or vice versa, the offeror shall have a preference right to a lease if the offer is filed not more than one year after September 2, 1960.

(c) Multiple use principle leases; native asphalt, solid and semisolid bitumen, and bituminous rock

With respect to native asphalt, solid and semisolid bitumen, and bituminous rock (including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried) a lease under the multiple use principle may issue notwithstanding the existence of an outstanding lease issued under any other provision of this chapter.

(Feb. 25, 1920, ch. 85, § 21, 41 Stat. 445; Sept. 2, 1960, Pub. L. 86-705, § 7, 74 Stat. 790.)

AMENDMENTS

1960—Pub. L. 86-705 designated existing provisions as subsec. (a) and added subsecs. (b) and (c). Other changes included addition of native asphalt, solid and semisolid bitumen, and bituminous rock within the scope of the section, and insertion of the limitation upon such holdings.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

SUBCHAPTER VI—ALASKA OIL PROVISO

§ 251. Leases to claimants of withdrawn lands; terms and conditions; acreage; annual rentals and royalties; fraud of claimants

Any bona fide occupant or claimant of oil or gas bearing lands in the Territory of Alaska, who, or whose predecessors in interest, prior to withdrawal had complied otherwise with the requirements of the mining laws, but had made no discovery of oil or gas in wells and who prior to withdrawal had made substantial improvements for the discovery of oil or gas on or for each location or had prior to February 25, 1920 expended not less than $250 in improvements on or for each location shall be entitled, upon relinquishment or surrender to the United States within one year from February 25, 1920, or within six months after final denial or withdrawal of application for patent, to a lease or leases, under this chapter covering such lands, not exceeding five leases in number and not exceeding an aggregate of one thousand two hundred and eighty acres in each: *Provided*, That the annual lease rentals for lands in the Territory of Alaska not within any known geological structure of a producing oil or gas field and the royalty payments from production of oil or gas sold or removed from such lands shall be identical with those prescribed for such leases covering similar lands in the States of the United

States, except that leases which may issue pursuant to applications or offers to lease such lands, which applications or offers were filed prior to and were pending on May 3, 1958, shall require the payment of 25 cents per acre as lease rental for the first year of such leases; but the aforesaid exception shall not apply in any way to royalties to be required under leases which may issue pursuant to offers or applications filed prior to May 3, 1958.

The Secretary of the Interior shall neither prescribe nor approve any cooperative or unit plan of development or operation nor any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

No claimant for a lease who has been guilty of any fraud or who had knowledge or reasonable grounds to know of any fraud, or who has not acted honestly and in good faith, shall be entitled to any of the benefits of this section.

(Feb. 25, 1920, ch. 85, § 22, 41 Stat. 446; July 3, 1958, Pub. L. 85-505, § 10, 72 Stat. 324.)

AMENDMENTS

1958—Pub. L. 85-505 eliminated provisions which related to prospecting permits, provided that the annual lease rentals and royalty payments shall be identical with those prescribed for leases covering similar lands in the States of the United States, permitted a payment of 25 cents per acre as lease rental for the first year of the lease in those leases issued pursuant to applications or offers filed prior to and pending on May 3, 1958, and prohibited the Secretary from prescribing or approving any cooperative or unit plan of development or operation or any operating, drilling, or development contract establishing different royalty or rental rates for Alaska lands than for similar lands within the States of the United States.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

SUBCHAPTER VII—SODIUM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 284 of this title.

§ 261. Prospecting permits; lands included; acreage

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium, in lands belonging to the United States for a period of not exceeding two years: *Provided*, That the area to be included in such a permit shall not exceed two thousand five hundred and sixty acres of land in reasonably compact form.

(Feb. 25, 1920, ch. 85, § 23, 41 Stat. 447; Dec. 11, 1928, ch. 19, 45 Stat. 1019.)

AMENDMENTS

1928—Act Dec. 11, 1928, deleted words "and directed" immediately following word "authorized", "dissolved in and soluble in water, and accumulated by concentration, in lands belonging to the United States for a period not exceeding two years," following "nitrates of sodium", and last proviso which read "Provided further, that the provisions of this section shall not apply to lands in San Bernardino County, California."

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 262 of this title; title 10 sections 7421, 7435.

§ 262. Leases to permittees; survey of lands; royalties and annual rentals

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in section 261 of this title have been discovered by the permittee within the area covered by his permit and that such land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit at a royalty of not less than 2 per centum of the quantity or gross value of the output of sodium compounds and other related products at the point of shipment to market; the lands in such lease to be taken in compact form by legal subdivisions of the public land surveys or, if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior. Lands known to contain valuable deposits of one of the substances enumerated in section 261 of this title and not covered by permits or leases shall be subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres. All leases under this section shall be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum of the quantity or gross value of the output of sodium compounds and other related products at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof, 50 cents per acre for the second, third, fourth, and fifth calendar years respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for any one year to be credited against royalties accruing for that year. Leases under this section shall be for a period of twenty years, with preferential right in the lessee to renew for successive periods of ten years upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such period: *Provided*, That nothing in this chapter shall prohibit the mining and sale of sodium compounds under potassium leases issued pursuant to subchapter

VII [§ 141 et seq.] of chapter 3 of this title and subchapter IX of this chapter, nor the mining and sale of potassium compounds as a byproduct from sodium leases taken under this section: *Provided further,* That on application by any lessee the Secretary of the Interior is authorized to modify the rental and royalty provisions stipulated in any existing sodium lease to conform to the provisions of this section.

(Feb. 25, 1920, ch. 85, § 24, 41 Stat. 447; Dec. 11, 1928, ch. 19, 45 Stat. 1019.)

REFERENCES IN TEXT

Subchapter VII [§ 141 et seq.] of chapter 3 of this title, referred to in text, was repealed by act Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058.

Subchapter IX of this chapter, referred to in text, in the original read act February 7, 1927 (Forty-fourth Statutes at Large, page 1057) meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted subchapter IX (§ 281 et seq.) of this chapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

AMENDMENTS

1928—Act Dec. 11, 1928, amended section generally.

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to title 10 sections 7421, 7435.

§ 263. Permits to use or lease of nonmineral lands for camp sites, and other purposes; annual rentals; acreage

In addition to areas of such mineral land which may be included in any such prospecting permits or leases, the Secretary of the Interior, in his discretion, may grant to a permittee or lessee of lands containing sodium deposits, and subject to the payment of an annual rental of not less than 25 cents per acre, the exclusive right to use, during the life of the permit or lease, a tract of unoccupied nonmineral public land, not exceeding forty acres in area, for camp sites, refining works, and other purposes connected with and necessary to the proper development and use of the deposits covered by the permit or lease.

(Feb. 25, 1920, ch. 85, § 25, 41 Stat. 447.)

CROSS REFERENCES

Surrender of leases, see section 188a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 7421, 7435.

SUBCHAPTER VIII—SULPHUR

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 351, 352, 505, 530, 541e of this title.

§ 271. Prospecting permits; lands included; acreage

The Secretary of the Interior is hereby authorized and directed, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for sulphur in lands belonging to the United States located in the States of Louisiana and New Mexico for a period of not exceeding two years: *Provided,* That the area to be included in such a permit shall be not exceeding six hundred and forty acres of lands in reasonably compact form.

(Apr. 17, 1926, ch. 158, § 1, 44 Stat. 301; July 16, 1932, ch. 498, 47 Stat. 701.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

AMENDMENTS

1932—Act July 16, 1932, substituted "States of Louisiana and New Mexico" for "State of Louisiana".

§ 272. Leases to permittees; privileges extended to oil and gas permittees

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of sulphur have been discovered by the permittee within the area covered by his permit, and that the land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of 5 per centum of the quantity or gross value of the output of sulphur at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public-land surveys; or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior: *Provided,* That where any person having been granted an oil and gas permit makes a discovery of sulphur in lands covered by said permit, he shall have the same privilege of leasing not to exceed six hundred and forty acres of said land under the same terms and conditions as are given a sulphur permittee under the provisions of this section.

(Apr. 17, 1926, ch. 158, § 2, 44 Stat. 301.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 273. Lease of lands not covered by permits or leases; acreage; rental

Lands known to contain valuable deposits of sulphur and not covered by permits or leases shall be held subject to lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt and in such areas as he shall fix, not exceeding six hundred and forty acres; all leases to be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease and the payment in advance of a rental of 50 cents per acre per annum, the rental paid for any one year to be credited against the royalties accruing for that year.

(Apr. 17, 1926, ch. 158, § 3, 44 Stat. 301.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 274. Lands containing coal or other minerals

Prospecting permits or leases may be issued in the discretion of the Secretary of the Interior under the provisions of this subchapter for deposits of sulphur in public lands also containing coal or other minerals on condition that such other deposits be reserved to the United States for disposal under applicable laws.

(Apr. 17, 1926, ch. 158, § 4, 44 Stat. 302.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 275. Laws applicable

The general provisions of sections 181 to 184, 185 to 188, 189 to 192, 193, and 194 of this title, are made applicable to permits and leases under this subchapter, sections 181 and 193 of this title being amended to include deposits of sulphur, and section 184 of this title being amended so as to prohibit any person, association, or corporation from taking or holding more than three sulphur permits or leases in any one State during the life of such permits or leases.

(Apr. 17, 1926, ch. 158, § 5, 44 Stat. 302.)

REFERENCES IN TEXT

Section 194 of this title, referred to in text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 276. Application of subchapter to Louisiana and New Mexico only

The provisions of this subchapter shall apply only to the States of Louisiana and New Mexico.

(Apr. 17, 1926, ch. 158, § 6, 44 Stat. 302; July 16, 1932, ch. 498, 47 Stat. 701.)

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

AMENDMENTS

1932—Act July 16, 1932, substituted "States of Louisiana and New Mexico" for "State of Louisiana".

SUBCHAPTER IX—POTASH

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 262, 351, 505, 530, 541e of this title.

§ 281. Prospecting permits for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium; authorization; acreage; lands affected

The Secretary of the Interior is hereby authorized, under such rules and regulations as he may prescribe, to grant to any qualified applicant a prospecting permit which shall give the exclusive right to prospect for chlorides, sulphates, carbonates, borates, silicates, or nitrates of potassium in lands belonging to the United States for a period of not exceeding two years: *Provided*, That the area to be included in such a permit shall not exceed two thousand five hundred and sixty acres of land in reasonably compact form: *Provided further*, That the prospecting provisions of this subchapter shall not apply to lands and deposits in or adjacent to Searles Lake, California, which lands may be leased by the Secretary of the Interior under the terms and provisions of this subchapter.

(Feb. 7, 1927, ch. 66, § 1, 44 Stat. 1057.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et. seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 282. Leases to permittees of lands showing valuable deposits; royalty

Upon showing to the satisfaction of the Secretary of the Interior that valuable deposits of one of the substances enumerated in this subchapter has been discovered by the permittee within the area covered by his permit, and that such land is chiefly valuable therefor, the permittee shall be entitled to a lease for any or all of the land embraced in the prospecting permit, at a royalty of not less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, such lease to be taken in compact form by legal subdivisions of the public land surveys, or if the land be not surveyed, by survey executed at the cost of the permittee in accordance with regulations prescribed by the Secretary of the Interior.

(Feb. 7, 1927, ch. 66, § 2, 44 Stat. 1057.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 283. Lands containing valuable deposits not covered by permits or leases; authority to lease; acreage; conditions; renewals; exemptions from rentals and royalties; suspension of operations

Lands known to contain valuable deposits enumerated in this subchapter and not covered by permits or leases shall be held subject to

lease by the Secretary of the Interior through advertisement, competitive bidding, or such other methods as he may by general regulations adopt, and in such areas as he shall fix, not exceeding two thousand five hundred and sixty acres; all leases to be conditioned upon the payment by the lessee of such royalty as may be fixed in the lease, not less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market, and the payment in advance of a rental of 25 cents per acre for the first calendar year or fraction thereof; 50 cents per acre for the second, third, fourth, and fifth years, respectively; and $1 per acre per annum thereafter during the continuance of the lease, such rental for that year being credited against royalties accruing for that year. Any lease issued under this subchapter shall be for a term of twenty years and so long thereafter as the lessee complies with the terms and conditions of the lease and upon the further condition that at the end of each twenty-year period succeeding the date of the lease such reasonable adjustment of the terms and conditions thereof may be made therein as may be prescribed by the Secretary of the Interior unless otherwise provided by law at the expiration of such periods. Leases shall be conditioned upon a minimum annual production or the payment of a minimum royalty in lieu thereof, except when production is interrupted by strikes, the elements, or casualties not attributable to the lessee. The Secretary of the Interior may permit suspension of operations under any such leases when marketing conditions are such that the leases cannot be operated except at a loss. The Secretary upon application by the lessee prior to the expiration of any existing lease in good standing shall amend such lease to provide for the same tenure and to contain the same conditions, including adjustment at the end of each twenty-year period succeeding the date of said lease, as provided for in this subchapter. In the discretion of the Secretary of the Interior the area involved in any lease resulting from a prospecting permit may be exempt from any rental in excess of 25 cents per acre for twenty years succeeding its issue, and the production of potassium compounds under such a lease may be exempt from any royalty in excess of the minimum prescribed in this subchapter for the same period.

(Feb. 7, 1927, ch. 66, § 3, 44 Stat. 1057; June 3, 1948, ch. 379, § 9, 62 Stat. 292.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

AMENDMENTS

1948—Act June 3, 1948, increased renewal term from ten to twenty years, provided for reasonable adjustment of terms, provided minimum conditions, and permitted suspension of operations under certain conditions.

§ 284. Lands containing coal or other minerals in addition to potassium deposits; issuance of prospecting permits and leases; covenants in potassium leases

Prospecting permits or leases may be issued under the provisions of this subchapter for deposits of potassium in public lands, also containing deposits of coal or other minerals, on condition that such other deposits be reserved to the United States for disposal under appropriate laws: *Provided*, That if the interests of the Government and of the lessee will be subserved thereby, potassium leases may include covenants providing for the development by the lessee of chlorides, sulphates, carbonates, borates, silicates, or nitrates of sodium, magnesium, aluminum, or calcium, associated with the potassium deposits leased, on terms and conditions not inconsistent with the sodium provisions of subchapter VII of this chapter: *Provided further*, That where valuable deposits of mineral now subject to disposition under the general mining laws are found in fissure veins on any of the lands subject to permit or lease under this subchapter, the valuable minerals so found shall continue subject to disposition under the said general mining laws notwithstanding the presence of potash therein.

(Feb. 7, 1927, ch. 66, § 4, 44 Stat. 1058.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

The sodium provisions of subchapter VII of this chapter, referred to in text, in the original read "the sodium provisions of the Act of February 25, 1920 (Forty-first Statutes at Large, page 437), which means sections 23 to 25 of act Feb. 25, 1920, ch. 85, 41 Stat. 447, which are classified to subchapter VII of this chapter.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 285. Laws applicable

The general provisions of sections 182 to 184, 185 to 188, 189 to 192, 193, and 194 of this title, are made applicable to permits and leases under this subchapter.

(Feb. 7, 1927, ch. 66, § 5, 44 Stat. 1058; Aug. 8, 1946, ch. 916, § 11, 60 Stat. 957.)

REFERENCES IN TEXT

Section 194 of this title, referred to in text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 644.

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed sub-

chapters VII (§ 141 et seq.) of chapters 3 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Provision that section 193 of this title was amended to include deposits of potassium was omitted from this section as executed to section 193 of this title.

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

AMENDMENTS

1946—Act Aug. 8, 1946, deleted reference to section 181 of this title.

SAVINGS PROVISIONS

Savings provisions, see note under section 181 of this title.

§ 286. Disposition of royalties and rents from potassium leases

All money received from royalties and rentals from any lease issued or renewed under the provisions of subchapter VII of chapter 3 of this title, shall be paid into, reserved, and appropriated as follows: 52½ per centum to the Reclamation Fund, 10 per centum to the Treasury of the United States as miscellaneous receipts, and 37½ per centum shall be paid by the Secretary of the Treasury, after the expiration of each fiscal year, to the State within the boundaries of which the leased lands or deposits are or were located, such money to be used by such State or subdivision thereof for the construction and maintenance of public roads or for the support of schools or other public educational institutions, as the legislature of the State may direct.

(Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058; June 1, 1948, ch. 356, 62 Stat. 279.)

REFERENCES IN TEXT

Subchapter VII of chapter 3, referred to in text, in the original read "the Act entitled 'An Act to authorize exploration for and disposition of potassium' approved October 2, 1917", meaning act Oct. 2, 1917, ch. 62, 40 Stat. 297, which was classified to subchapter VII (§ 141 et seq.) of chapter 3 of this title and which was repealed by act Feb. 7, 1927, ch. 66, § 6, 44 Stat. 1058.

CODIFICATION

Section is composed of the second sentence of section 6 of act Feb. 7, 1927, as added by act June 1, 1948. The first sentence of section 6 repealed former sections 141 to 152 of this title and did not affect pending applications for permits or leases filed prior to Jan. 1, 1926, or valid claims existent on Feb. 7, 1927, and thereafter maintained in compliance with the laws under which initiated, which claims could be perfected under such laws, including discovery.

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

§ 287. Extension of prospecting permits

Any prospecting permit issued under this subchapter may be extended by the Secretary of the Interior for a period not exceeding two years, upon a showing of satisfactory cause.

(Feb. 7, 1927, ch. 66, § 7, as added May 7, 1932, ch. 174, 47 Stat. 151.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted this subchapter, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

CODIFICATION

Section was not enacted as a part of act Feb. 25, 1920, ch. 85, 41 Stat. 437, the Mineral Lands Leasing Act, which comprises this chapter.

CHAPTER 4—LEASE OF GOLD, SILVER, OR QUICKSILVER DEPOSITS WHEN TITLE CONFIRMED BY COURT OF PRIVATE LAND CLAIMS

Sec.

291. Lease of gold, silver, or quicksilver deposits on lands title to which confirmed by Court of Private Land Claims.
292. Royalties and rentals; disposition.
293. Duties of Secretary of the Interior.

§ 291. Lease of gold, silver, or quicksilver deposits on lands title to which confirmed by Court of Private Land Claims

All gold, silver, or quicksilver deposits, or mines or minerals of the same on lands embraced within any land claim confirmed or hereafter confirmed by decree of the Court of Private Land Claims, and which did not convey the mineral rights to the grantee by the terms of the grant, and to which such grantee has not become otherwise entitled in law or in equity, may be leased by the Secretary of the Interior to the grantee, or to those claiming through or under him, for a period of twenty years, with the preferential right in the lessee to renew the same for successive periods of ten years, upon such reasonable terms and conditions as may be prescribed by the Secretary of the Interior, unless otherwise provided by law at the time of the expiration of such periods.

(June 8, 1926, ch. 503, § 1, 44 Stat. 710.)

§ 292. Royalties and rentals; disposition

For the privilege of mining or extracting the gold, silver, or quicksilver deposits in the land covered by such lease, the lessee shall pay to the United States a royalty, which shall not be less than 5 per centum nor more than 12½ per centum of the net value of the output of the gold, silver, or quicksilver at the mine, due and payable at the end of each month succeeding that of the extraction of the minerals from the mine. All moneys received from royalties and rentals under the provisions of this chapter shall be deposited in the Treasury of the United States, and disposed of in the same manner as rentals and royalties under the provisions of section 191 of this title.

(June 8, 1926, ch. 503, § 2, 44 Stat. 710.)

§ 293. Duties of Secretary of the Interior

The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying this chapter into full force and effect.

(June 8, 1926, ch. 503, § 3, 44 Stat. 710.)

CHAPTER 5—LEASE OF OIL AND GAS DEPOSITS IN OR UNDER RAILROADS AND OTHER RIGHTS-OF-WAY

Sec.
301. Authorization for lease of oil and gas deposits; by and to whom leased.
302. Assignment of lease; subletting.
303. Conditions precedent to award of lease; preferred class; bidding.
304. Provisions authorized in lease.
305. Royalties under lease.
306. Rules and regulations.

§ 301. Authorization for lease of oil and gas deposits; by and to whom leased

Whenever the Secretary of the Interior shall deem it to be consistent with the public interest he is authorized to lease deposits of oil and gas in or under lands embraced in railroad or other rights of way acquired under any law of the United States, whether the same be a base fee or mere easement: *Provided*, That, except as hereinafter authorized, no lease shall be executed hereunder except to the municipality, corporation, firm, association, or individual by whom such right of way was acquired, or to the lawful successor, assignee, or transferee of such municipality, corporation, firm, association, or individual.

(May 21, 1930, ch. 307, § 1, 46 Stat. 373.)

CROSS REFERENCES

Submerged lands, mineral rights generally, see section 1301 et seq. of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 303 of this title.

§ 302. Assignment of lease; subletting

The right conferred by this chapter may, subject to the approval of the Secretary of the Interior, be assigned or sublet by the owner thereof to any corporation, firm, association, or individual.

(May 21, 1930, ch. 307, § 2, 46 Stat. 373.)

§ 303. Conditions precedent to award of lease; preferred class; bidding

Prior to the award of any lease under section 301 of this title, the Secretary of the Interior shall notify the owner or lessee of adjoining lands and allow him a reasonable time, to be fixed in the notice given, within which to submit an offer or bid of the amount or percentage of compensatory royalty that such owner will agree to pay for the extraction through wells on his or its adjoining land, of the oil or gas under and from such adjoining right of way, and at the same time afford the holder of the railroad or other right of way a like opportunity within the same time to submit its bid or offer as to the amount or percentage of royalty it will agree to pay, if a lease for the extraction of the oil and gas deposits under the right of way be awarded to the holder of such right of way. In case of competing offers by the said parties in interest, the Secretary shall award the right to extract the oil and gas to the bidder, duly qualified, making the offer in his opinion most advantageous to the United States. In case but one bid or offer is received after notice duly given, he may, in his discretion, award the right to extract the oil and gas to such bidder.

(May 21, 1930, ch. 307, § 3, 46 Stat. 374.)

§ 304. Provisions authorized in lease

Any lease granted by the Secretary of the Interior pursuant to this chapter may, in the discretion of said Secretary, contain a provision giving the lessee the right, with the approval of said Secretary, to shut down the operation of any well or wells the operation of which has become unprofitable, to resume operations when such resumption may result in profit, and to abandon any well or wells that cease to produce oil and/or gas in paying quantities.

(May 21, 1930, ch. 307, § 4, 46 Stat. 374.)

§ 305. Royalties under lease

The royalty to be paid to the United States under any lease to be issued, or agreement made pursuant to this chapter, shall be determined by the Secretary of the Interior, in no case to be less than 12½ per centum in amount or value of the production, nor for more than twenty years: *Provided*, That when the oil or gas is produced from land adjacent to the right of way the amount or value of the royalty to be paid to the United States shall be within the discretion of the Secretary of the Interior: *Provided further*, That when the daily average production of any oil well does not exceed ten barrels per day said Secretary may, in his discretion, reduce the royalty on subsequent production.

(May 21, 1930, ch. 307, § 5, 46 Stat. 374.)

§ 306. Rules and regulations

The Secretary of the Interior is authorized and directed to adopt rules and regulations governing the exercise of the discretion and authority conferred by this chapter, which rules and regulations shall constitute a part of any application or lease hereunder.

(May 21, 1930, ch. 307, § 6, 46 Stat. 374.)

CHAPTER 6—SYNTHETIC LIQUID FUEL DEMONSTRATION PLANTS

Sec.
321. Construction and operation of plants producing synthetic liquid fuel from coal, oil shale, agricultural and forestry products, size; amount of production.
322. Laboratory research and development; acquisition by purchase and license of secret processes, inventions, etc.; acquisition of land, plants, etc.; contracting for personnel; cooperation with other Federal and State agencies.
323. Licenses and patent rights.
324. Deposit of funds; reports to Congress.
325. Rules and regulations; delegation of Secretary's authority.

§ 321. Construction and operation of plants producing synthetic liquid fuel from coal, oil shale, agricultural and forestry products, size; amount of production

The Secretary of the Interior, acting through the Bureau of Mines, within the limits of critical materials available, is authorized for not

more than eleven years to construct, maintain, and operate one or more demonstration plants to produce synthetic liquid fuels from coal, oil shale, and other substances, and one or more demonstration plants to produce liquid fuels from agricultural and forestry products, with all facilities and accessories for the manufacture, purification, storage, and distribution of the products. The plants shall be of the minimum size which will allow the Government to furnish industry the necessary cost and engineering data for the development of a synthetic liquid-fuel industry and of such size that the combined product of all the plants constructed in accordance with this chapter will not constitute a commercially significant amount of the total national commercial sale and distribution of petroleum and petroleum products. Any activities under this chapter relating to the production of liquid fuels from agricultural and forestry products shall be carried out in cooperation with the Department of Agriculture and subject to the direction of the Secretary of Agriculture and not to exceed $1,000,000 of the amount authorized by this chapter may be applied to a program of production research on secondary recovery from stripper oil fields and in refining processes.

(Apr. 5, 1944, ch. 172, § 1, 58 Stat. 190; Mar. 15, 1948, ch. 117, 62 Stat. 79; Sept. 22, 1950, ch. 988, § 1, 64 Stat. 905.)

AMENDMENTS

1950—Act Sept. 22, 1950, substituted "eleven years" for "eight years".

1948—Act Mar. 15, 1948, substituted "eight years" for "five years", and limited to $1,000,000 sum applicable to program of production research on secondary recovery from stripper oil fields and in refining processes.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

APPROPRIATIONS

Section 6 of act Apr. 5, 1944, as amended by acts Mar. 15, 1948, and Sept. 22, 1950, § 1, provided that: "There is authorized to be appropriated not to exceed the sum of $87,600,000 to carry out the provisions of this Act [this chapter]."

MORGANTOWN, W. VA., EXPERIMENT STATION

Section 2 of act Sept. 22, 1950, authorized a sum not to exceed $2,600,000, to be used for the construction and equipment of an experiment station in or near Morgantown, West Virginia, for research in mining, preparation, and utilization of coal, petroleum, natural gas, peat, and other minerals.

§ 322. Laboratory research and development; acquisition by purchase and license of secret processes, inventions, etc.; acquisition of land, plants, etc.; contracting for personnel; cooperation with other Federal and State agencies

In order to carry out the purpose of this chapter, the Secretary of the Interior is authorized—

(a) to conduct laboratory research and development work, and with pilot plants and semiworks plants to make careful process engineering studies along with structural engineering studies in order to ascertain lowest investment and operating costs, necessary to determine the best demonstration plant designs and conditions of operation;

(b) to acquire, by purchase, license, lease for a term of years or less, or donation, secret processes, technical data, inventions, patent applications, patents, irrevocable nonexclusive licenses, and other rights and licenses under patents granted by this or any other nation; to acquire by purchase, lease for a term of years or less, or donation, land, and any interest in land (including easements and leasehold interests), options on real or personal property, and plants and their facilities; to assume the obligation to pay rentals in advance on property so acquired, and to pay damages arising out of the use of any such property: *Provided, however,* That the maximum quantity of land or any interest therein, or any other property, acquired hereunder shall not exceed that necessary to carry on experiments for the purposes herein provided;

(c) to engage, by contract or otherwise, engineers, architects, and any private industrial organization or any educational institution he deems suitable, to do all or any part of the work of designing, constructing, or operating the plants, the operation to be under his supervision, and through leases or otherwise as he believes advisable;

(d) to cooperate with any other Federal or State department, agency, or instrumentality, and with any private person, firm, educational institution, or corporation, in effectuating the purposes of this chapter.

(Apr. 5, 1944, ch. 172, § 2, 58 Stat. 190.)

§ 323. Licenses and patent rights

The Secretary of the Interior is authorized to grant, on such terms as he may consider appropriate but subject to section 488 of title 40, licenses under patent rights acquired under this chapter: *Provided,* That such licenses are consistent with the terms of the agreements by which such patent rights are acquired. No patent acquired by the Secretary of the Interior under this chapter shall prevent any citizen of the United States, or corporation created under the laws of the United States or any State thereof, from using any invention, discovery, or process covered by such patent, or restrict such use by any such citizen or corporation, or be the basis of any claim against any such person or corporation on account of such use.

(Apr. 5, 1944, ch. 172, § 3, 58 Stat. 191; Oct. 31, 1951, ch. 654, § 4(2), 65 Stat. 709.)

AMENDMENTS

1951—Act Oct. 31, 1951, struck out provisions authorizing Secretary of the Interior to sell the products of the plants, and to dispose of any lands or other real or personal property acquired but no longer useful for purposes of this chapter, and inserted the reference to section 488 of Title 40, Public Buildings, Property, and Works.

§ 324. Deposit of funds; reports to Congress

All moneys received under this chapter for products of the plants and royalties shall be paid into the Treasury as miscellaneous re-

ceipts. The Secretary of the Interior shall render to Congress on or before the first day of January of each year a report of all operations under this chapter.

(Apr. 5, 1944, ch. 172, § 4, 58 Stat. 191.)

§ 325. Rules and regulations; delegation of Secretary's authority

The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this chapter. The authority and duties of the Secretary of the Interior under this chapter shall be exercised through the Bureau of Mines of the Department of the Interior.

(Apr. 5, 1944, ch. 172, § 5, 58 Stat. 191.)

Transfer of Functions

See Transfer of Functions note under section 1 of this title.

CHAPTER 7—LEASE OF MINERAL DEPOSITS WITHIN ACQUIRED LANDS

Sec.
351. Definitions.
352. Deposits subject to lease; consent of department heads; lands excluded.
353. Sale of lands unaffected; reservation of mineral rights; sale subject to prior lease; naval petroleum reserves unaffected.
354. Lease of partial or future interests in deposits.
355. Disposition of receipts.
356. Furnishing description of lands and title documents; recordation of documents; authenticated copies.
357. State or local government rights; taxation.
358. Rights under prior leases; priority of pending applications; exchange of leases.
359. Rules and regulations.

Cross References

Submerged lands, mineral rights generally, see section 1301 et seq. of Title 43, Public Lands.

Chapter Referred to in Other Sections

This chapter is referred to in sections 192c, 541d, 1003, 1005 of this title; title 16 sections 90c–1, 283b, 460q–5, 460v–4, 460dd–2.

§ 351. Definitions

As used in this chapter "United States" includes Alaska. "Acquired lands" or "lands acquired by the United States" include all lands heretofore or hereafter acquired by the United States to which the "mineral leasing laws" have not been extended, including such lands acquired under the provisions of the Act of March 1, 1911 (36 Stat. 961, 16 U.S.C., sec. 552). "Secretary" means the Secretary of the Interior. "Mineral leasing laws" shall mean the Act of October 20, 1914 (38 Stat. 741, 48 U.S.C., sec. 432); the Act of February 25, 1920 (41 Stat. 437, 30 U.S.C., sec. 181); the Act of April 17, 1926 (44 Stat. 301, 30 U.S.C., sec. 271); the Act of February 7, 1927 (44 Stat. 1057, 30 U.S.C., sec. 281), and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts. "Lease" includes "prospecting permit" unless the context otherwise requires.

(Aug. 7, 1947, ch. 513, § 2, 61 Stat. 913.)

References in Text

The Act of March 1, 1911, referred to in text, is act Mar. 1, 1911, ch. 186, 36 Stat. 961, popularly known as the "Weeks law", which is classified to sections 480, 500, 513 to 519, 521, 552, and 563 of Title 16, Conservation. For complete classification of this Act to the Code, see Short Title note set out under section 552 of Title 16 and Tables volume.

The Act of October 20, 1914, referred to in text, is act Oct. 20, 1914, ch. 330, 38 Stat. 741, popularly known as the Alaska Coal Lands Act, which was repealed by Pub. L. 86–252, § 1, Sept. 9, 1959, 73 Stat. 490. The subject matter of this Act is now generally covered by subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code prior to repeal, see Tables volume.

The Act of February 25, 1920, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, popularly known as the Mineral Lands Leasing Act, which is classified generally to subchapters I to VII (§ 181 et seq.) of Chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

Act April 17, 1926, referred to in text, is act Apr. 17, 1926, ch. 158, 44 Stat. 301, which is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Tables volume.

Act February 7, 1927, referred to in text, is act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted subchapter IX (§ 281 et seq.) of chapter 3A of this title, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

Short Title

Congress in enacting this chapter provided in section 1 of act Aug. 7, 1947, that this chapter may be cited as the "Mineral Leasing Act for Acquired Lands".

Admission of Alaska as State

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

Outer Continental Shelf Lands; Definition

Definition of "outer Continental Shelf" with respect to jurisdiction of United States, and mineral leases on submerged lands of such shelf, see section 1331 et seq., of Title 43, Public Lands.

Section Referred to in Other Sections

This section is referred to in section 356 of this title.

§ 352. Deposits subject to lease; consent of department heads; lands excluded

Except where lands have been acquired by the United States for the development of the mineral deposits, by foreclosure or otherwise for resale, or reported as surplus pursuant to the provisions of the Surplus Property Act of October 3, 1944 (50 U.S.C., sec 1611 and the following), all deposits of coal, phosphate, oil, oil shale, gas, sodium, potassium, and sulfur which are owned or may hereafter be acquired by the United States and which are within the lands acquired by the United States (exclusive of such deposits in such acquired lands as are (a) situated within incorporated cities, towns and villages, national parks or monuments, or (b) tidelands or submerged lands) may be leased by the Secretary under the same conditions as

contained in the leasing provisions of the mineral leasing laws, subject to the provisions hereof. Coal or lignite under acquired lands set apart for military or naval purposes may be leased by the Secretary, with the concurrence of the Secretary of Defense, to a governmental entity (including any corporation primarily acting as an agency or instrumentality of a State) which produces electrical energy for sale to the public if such governmental entity is located in the State in which such lands are located. The provisions of subchapter VIII of chapter 3A of this title shall apply to deposits of sulfur covered by this chapter wherever situated. No mineral deposit covered by this section shall be leased except with the consent of the head of the executive department, independent establishment, or instrumentality having jurisdiction over the lands containing such deposit, or holding a mortgage or deed of trust secured by such lands which is unsatisfied of record, and subject to such conditions as that official may prescribe to insure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered: *Provided*, That nothing in this chapter is intended, or shall be construed, to apply to or in any manner affect any mineral rights, exploration permits, leases or conveyances nor minerals that are or may be in any tidelands; or submerged lands; or in lands underlying the three mile zone or belt involved in the case of the United States of America against the State of California now pending on application for rehearing in the Supreme Court of the United States; or in lands underlying such three mile zone or belt, or the continental shelf, adjacent or littoral to any part of the land within the jurisdiction of the United States of America.

(Aug. 7, 1947, ch. 513, § 3, 61 Stat. 914; Aug. 4, 1976, Pub. L. 94-377, § 12, 90 Stat. 1090.)

REFERENCES IN TEXT

The Surplus Property Act of 1944, referred to in text, is act Oct. 3, 1944, ch. 479, 58 Stat. 765, which was classified principally to sections 1611 to 1646 of Title 50, App., War and National Defense, and was repealed, effective July 1, 1949, with the exception of sections 1622, 1631, 1637, and 1641 of Title 50 App., by act June 30, 1949, ch. 288, title VI, § 602(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583. Sections 1622 and 1641 were partially repealed by the 1949 act, and section 1622 is still set out in part in Title 50 App. Section 1631 was repealed by act June 7, 1938, ch. 190, § 6(e), as added by act July 23, 1946, ch. 590, 60 Stat. 599, and is now covered by sections 98 et seq. of Title 50, War and National Defense. Section 1637 was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and is now covered by section 3287 of Title 18, Crimes and Criminal Procedure. Provisions of section 1641 not repealed by the 1949 act were repealed by Pub. L. 87-256, § 111(a)(1), Sept. 21, 1961, 75 Stat. 538, and are now covered by chapter 33 (§ 2451 et seq.) of Title 22, Foreign Relations and Intercourse. The provisions of the Surplus Property Act of 1944 originally repealed by the 1949 act are now covered by chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works.

Subchapter VIII (§ 271 et seq.) of chapter 3A of this title, referred to in text, was in the original a reference to the provisions of the Act of April 17, 1926 (44 Stat. 301), as heretofore or hereafter amended.

For definition of "mineral leasing laws", see section 351 of this title.

The application for rehearing in the case of the United States of America against the State of California, referred to in the text, was denied on Oct. 13, 1947, by the Supreme Court of the United States. See 68 S. Ct. 37, 332 U.S. 787, 92 L. Ed. 370.

AMENDMENTS

1976—Pub. L. 94-377 substituted "or (b)" for "(b) set apart for military or naval purposes, or (c)" and added provision allowing the Secretary, with the concurrence of the Secretary of Defense, to lease coal or lignite under lands set aside for military purposes to a governmental entity which produces electrical energy for sale to the public if such governmental entity is located in the State in which such lands are located.

OUTER CONTINENTAL SHELF; LEASES

Grant by Secretary of the Interior of oil, gas, and other mineral leases on submerged lands of outer Continental Shelf, see section 1331 et seq. of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 354 of this title.

§ 353. Sale of lands unaffected; reservation of mineral rights; sale subject to prior lease; naval petroleum reserves unaffected

Nothing herein contained shall be deemed or construed to (a) amend, modify, or change any existing law authorizing or requiring the sale of acquired lands, or (b) empower any commission, bureau, or agency of the Government to make a reservation of the minerals in the sale of any acquired land: *Provided*, That any such sale or conveyance of lands shall be made by the agency having jurisdiction thereof, subject to any lease theretofore made, covering the mineral deposits underlying such lands: *Provided further*, That nothing in this chapter is intended, or shall be construed to affect in any manner any provision of chapter 641 of title 10.

(Aug. 7, 1947, ch. 513, § 4, 61 Stat. 914.)

CODIFICATION

"Chapter 641 of title 10" was substituted for "the Act of June 30, 1938 (32 Stat. 1252), amending the Act of June 4, 1920 (41 Stat. 813)", which had been classified to section 524 of former Title 34, Navy, on authority of section 49(b) of act Aug. 10, 1956, ch. 1041, 70A Stat. 640, section 1 of which enacted Title 10, Armed Forces.

CROSS REFERENCES

Transfer of unsold mineral interests in certain agricultural lands to Secretary of Interior, see section 1035 of Title 7, Agriculture.

§ 354. Lease of partial or future interests in deposits

Where the United States does not own all of the mineral deposits under any lands sought to be leased and which are affected by this chapter, the Secretary is authorized to lease the interest of the United States in any such mineral deposits when, in the judgment of the Secretary, the public interest will be best served thereby; subject, however, to the provisions of section 352 of this title. Where the United States does not own any interest or owns less than a full interest in the minerals that may be produced from any lands sought to be leased, and which are or will be affected by this chapter and where, under the provisions of its acquisition, the United States is to acquire all or any part of such mineral deposits in the future, the

Secretary may lease any interest of the United States then owned or to be acquired in the future in the same manner as provided in the preceding sentence.

(Aug. 7, 1947, ch. 513, § 5, 61 Stat. 914.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 459c.

§ 355. Disposition of receipts

All receipts derived from leases issued under the authority of this chapter shall be paid into the same funds or accounts in the Treasury and shall be distributed in the same manner as prescribed for other receipts from the lands affected by the lease, the intention of this provision being that this chapter shall not affect the distribution of receipts pursuant to legislation applicable to such lands: *Provided, however,* That receipts from leases or permits for minerals in lands set apart for Indian use, including lands the jurisdiction of which has been transferred to the Department of the Interior by the Executive order for Indian use, shall be deposited in a special fund in the Treasury until final disposition thereof by the Congress.

(Aug. 7, 1947, ch. 513, § 6, 61 Stat. 915.)

OUTER CONTINENTAL SHELF; REVENUES FROM LEASES

Disposition of revenues from leases on submerged lands of outer Continental Shelf, see sections 1337(g) and 1338 of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 459d; title 31 section 1604.

§ 356. Furnishing description of lands and title documents; recordation of documents; authenticated copies

Upon request by the Secretary, the heads of all executive departments, independent establishments, or instrumentalities having jurisdiction over any of the lands referred to in section 351 of this title shall furnish to the Secretary the legal description of all of such lands, and all pertinent abstracts, title papers, and other documents in the possession of such agencies concerning the status of the title of the United States to the mineral deposits that may be found in such lands.

Abstracts, title papers, and other documents furnished to the Secretary under this section shall be recorded promptly in the Bureau of Land Management in such form as the Secretary shall deem adequate for their preservation and use in the administration of this chapter, whereupon the originals shall be returned promptly to the agency from which they were received. Duly authenticated copies of any such abstracts, title papers, or other documents may, however, be furnished to the Secretary, in lieu of the originals, in the discretion of the agency concerned.

(Aug. 7, 1947, ch. 513, § 7, 61 Stat. 915.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 357. State or local government rights; taxation

Nothing contained in this chapter shall be construed to affect the rights of the State or other local authorities to exercise any right which they may have with respect to properties covered by leases issued under this chapter, including the right to levy and collect taxes upon improvements, output of mines, or other rights, property, or assets of any lessee of the United States.

(Aug. 7, 1947, ch. 513, § 8, 61 Stat. 915.)

§ 358. Rights under prior leases; priority of pending applications; exchange of leases

Nothing in this chapter shall affect any rights acquired by any lessee of lands subject to this chapter under the law as it existed prior to August 7, 1947, and such rights shall be governed by the law in effect at the time of their acquisition; but any person qualified to hold a lease who, on August 7, 1947, had pending an application for an oil and gas lease for any lands subject to this chapter which on the date the application was filed was not situated within the known geologic structure of a producing oil or gas field, shall have a preference right over others to a lease of such lands without competitive bidding. Any person holding a lease on lands subject hereto, which lease was issued prior to August 7, 1947, shall be entitled to exchange such lease for a new lease issued under the provisions of this chapter, at any time prior to the expiration of such existing lease.

(Aug. 7, 1947, ch. 513, § 9, 61 Stat. 915.)

OUTER CONTINENTAL SHELF; JURISDICTION OF UNITED STATES; VALIDATION OF PRIOR LEASES

Jurisdiction of United States over outer Continental Shelf, grant of leases on submerged lands thereof, and validation of prior leases, see section 1331 et seq. of Title 43, Public Lands.

§ 359. Rules and regulations

The Secretary of the Interior is authorized to prescribe such rules and regulations as are necessary and appropriate to carry out the purposes of this chapter, which rules and regulations shall be the same as those prescribed under the mineral leasing laws to the extent that they are applicable.

(Aug. 7, 1947, ch. 513, § 10, 61 Stat. 915.)

REFERENCES IN TEXT

For definition of "mineral leasing laws", see section 351 of this title.

CHAPTER 8—DEVELOPMENT OF LIGNITE COAL RESOURCES

Sec.
401. Establishment of research laboratory; duties.
402. Acquisition of lands and property; utilization of voluntary services; cooperation with other Federal, State, and private agencies.
403. Repealed.
404. Establishment of an advisory committee; composition and appointment.

§ 401. Establishment of research laboratory; duties

The Secretary of the Interior, acting through the United States Bureau of Mines, is autho-

rized and directed to establish, equip, and maintain a research laboratory in the lignite-consuming region of North Dakota to conduct researches and investigations on the mining, preparation, and utilization of lignite coal and to develop new scientific, chemical, and technical uses and new and extended markets and outlets for lignite coal and its products. Such laboratory shall be planned as a center for information and assistance in matters pertaining to conserving lignite coal resources for national defense and security; to the more efficient mining, preparation, and utilization of lignite coal; and pertaining to safety, health, and sanitation in mining operations and other matters relating to problems of the lignite industry.

(Mar. 25, 1948, ch. 146, § 1, 62 Stat. 85.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

APPROPRIATIONS

Section 5 of act Mar. 25, 1948, provided that: "In order to carry out the purposes of this Act [this chapter] there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of (a) $750,000 for the erection and equipment of a building or buildings, including plumbing, lighting, heating, general service, and experimental equipment and apparatus, the necessary roads, walks, and ground improvement, and land for the site of the building if no land is donated; and (b) $250,000 annually for the maintenance and operation of the experimental station, including personal services, supplies, equipment, and expenses of travel and subsistence."

§ 402. Acquisition of lands and property; utilization of voluntary services; cooperation with other Federal, State, and private agencies

For the purpose of this chapter the Secretary, acting through the United States Bureau of Mines, is authorized to acquire land and interests therein, and to accept in the name of the United States donations of any property, real or personal, and to utilize voluntary or uncompensated services at such laboratory. The Secretary is authorized and directed to cooperate with other departments or agencies of the Federal Government, States, and State agencies and institutions, counties, municipalities, business or other organizations, corporations, associations, universities, scientific societies, and individuals, upon such terms and conditions as he may prescribe.

(Mar. 25, 1948, ch. 146, § 2, 62 Stat. 85.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 1 of this title.

§ 403. Repealed. Pub. L. 93-608, § 1(12), Jan. 2, 1975, 88 Stat. 1969

Section, act Mar. 25, 1948, ch. 146, § 3, 62 Stat. 85, required the Secretary of the Interior, acting through the Bureau of Mines, to report to Congress on the activities, expenditures, etc., of the laboratory.

§ 404. Establishment of an advisory committee; composition and appointment

The Secretary of the Interior, acting through the United States Bureau of Mines, may, in his discretion, create and establish an advisory committee composed of not more than six members to exercise consultative functions, when required by the Secretary, in connection with the administration of this chapter. The said committee shall be composed of representatives of lignite coal-mine owners, of representatives of lignite coal-mine workers and the public in equal number. The members of said committee shall be appointed by the Secretary of the Interior without regard to the civil-service laws.

(Mar. 25, 1948, ch. 146, § 4, 62 Stat. 85.)

REFERENCES IN TEXT

The civil-service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

TRANSFER OF FUNCTIONS

See Transfer of Functions note set out under section 1 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 9—RARE AND PRECIOUS METALS EXPERIMENT STATION

Sec.
411. Establishment and operation of experimental plant.
412. Acquisition of lands and interests; acceptance of money and property; disposition and use of money.

§ 411. Establishment and operation of experimental plant

The Secretary of the Interior, acting through the Bureau of Mines, is authorized and directed to establish, equip, and maintain a research laboratory at Reno, Nevada, for research, investigation, and as a center for information and assistance in matters pertaining to the mining, preparation, metallurgy, use, and conservation of the rare and precious metals of the Sierra Nevada mining region, and pertaining to other problems affecting the mining industry of that region.

(June 21, 1950, ch. 338, § 1, 64 Stat. 248.)

APPROPRIATIONS

Section 3 of act June 21, 1950, provided that: "In order to carry out the purposes of this Act [this chapter] there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of (a) $750,000 for the erection and

equipment of a building or buildings, including plumbing, lighting, heating, ventilation, general service, experimental equipment and apparatus, the necessary roads, walks, and ground improvements; and (b) $250,000 annually for the maintenance and operation of the experiment station, including personal services, supplies, equipment, and expenses of travel and subsistence."

§ 412. Acquisition of lands and interests; acceptance of money and property; disposition and use of money

For the purposes of this chapter the Secretary, acting through the Bureau of Mines, is authorized to acquire land and interests therein; to receive and accept money and property, real or personal, on interests therein, and services as a gift, bequest, or contribution; and may conduct activities or projects in cooperation with any person, firm, agency, or organization, Federal, State, or private. Money so received shall be deposited in the Treasury of the United States in a special fund or funds for disbursement by the Bureau of Mines and shall remain available for the purposes for which received and accepted until expended.

(June 21, 1950, ch. 338, § 2, 64 Stat. 248.)

CHAPTER 10—COAL MINE SAFETY

REPEAL OF CHAPTER

Chapter repealed by Pub. L. 91-173, title V, § 509, Dec. 30, 1969, 83 Stat. 803, on the operative date of sections 811 to 821 and 861 to 878 of this title, which became operative ninety days after the enactment of Pub. L. 91-173, approved Dec. 30, 1969, except that this chapter would continue to apply to any order, notice, decision, finding or any proceedings related to such order, notice, decision, or finding issued prior to the operative date of sections 811 to 812 and 861 to 878 of this title.

§§ 451 to 460, 471 to 483. Repealed. Pub. L. 91-173, title V, § 509, Dec. 30, 1969, 83 Stat. 803

Section 451, act May 7, 1941, ch. 87, title 1, § 101, formerly § 1, 55 Stat. 177, renumbered July 16, 1952, ch. 877, § 4(4), 66 Stat. 710, authorized the Secretary of the Interior to make annual investigations of coal mines to obtain information relating to health and safety conditions.

Section 452, act May 7, 1941, ch. 87, title I, § 102, formerly § 2, 55 Stat. 178, renumbered and amended July 16, 1952, ch. 877, § 4(3), (5), (6), 66 Stat. 710, empowered the Secretary of the Interior to make inspections at any time.

Section 453, act May 7, 1941, ch. 87, title I, § 103, formerly § 3, 55 Stat. 178, renumbered and amended July 16, 1952, ch. 877, § 4(5), (7), 66 Stat. 710, authorized investigators to enter any mine affecting interstate commerce.

Section 454, act May 7, 1941, ch. 87, title I, § 104, formerly § 4, 55 Stat. 178, renumbered and amended July 16, 1952, ch. 877, § 4(5), (7), (8), 66 Stat. 709, provided for penalty for the refusal to admit investigator.

Section 455, act May 7, 1941, ch. 87, title I, § 105, formerly § 5, 55 Stat. 178, renumbered and amended July 16, 1952, ch. 877, §§ 3, 4(5), 66 Stat. 709, 710, provided for the filing of accident information.

Section 456, act May 7, 1941, ch. 87, title I, § 106, formerly § 6, 55 Stat. 178, renumbered and amended July 16, 1952, ch. 877, § 4(3), (5), 66 Stat. 710, directed the Secretary of the Interior to compile and publish reports and to expend funds for the advancement of health and safety in mines.

Section 457, act May 7, 1941, ch. 87, title I, § 107, formerly § 7, 55 Stat. 179, renumbered and amended July 16, 1952, ch. 877, § 4(3), (5), (9), 66 Stat. 710, provided for administration of the provisions of former sections 451 to 460 of this title by the Bureau of Mines and directed Federal agencies to cooperate with State mine safety agencies.

Section 458, act May 7, 1941, ch. 87, title I, § 108, formerly § 8, 55 Stat. 179, renumbered and amended July 16, 1952, ch. 877, § 4(3), (5), 66 Stat. 710, authorized the creation of an advisory committee and provided for its functions and composition.

Section 459, act May 7, 1941, ch. 87, title I, § 109, formerly § 9, 55 Stat. 179, renumbered and amended Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972; July 16, 1952, ch. 877, § 4(3), (5), 66 Stat. 710, authorized the employment of personnel for the administration of sections 451 to 460 of this title and set out qualification conditions.

Section 460, act May 7, 1941, ch. 87, title I, § 111, formerly 11, 55 Stat. 179, renumbered and amended July 16, 1952, ch. 877, § 4(3), (5), 66 Stat. 710, defined the term "Commerce" as used in sections 451 to 460 of this title.

Section 471, act May 7, 1941, ch. 87, title II, § 201, as added July 16, 1952, ch. 877, § 1, 66 Stat. 692, and amended Mar. 26, 1966, Pub. L. 89-376, § 2(a), 80 Stat. 84, defined terms as used in sections 471 to 483 of this title.

Section 472, act May 7, 1941, ch. 87, title II, § 202, as added July 16, 1952, ch. 877, § 1, 66 Stat. 693, and amended Mar. 26, 1966, Pub. L. 89-376, § 3(b), 80 Stat. 87, set out provisions for annual and special instructions, directed Federal agencies to coordinate operations with State mine safety agencies created pursuant to enumerated conditions and authorized any such State inspector to enter any mine affecting commerce.

Section 473, act May 7, 1941, ch. 87, title II, § 203, as added July 16, 1952, ch. 877, § 1, 66 Stat. 694, and amended Mar. 26, 1966, Pub. L. 89-376, § 3(a), 80 Stat. 85, set out procedures for withdrawal when immediate or nonimmediate dangers were found to exist in mines.

Section 474, act May 7, 1941, ch. 87, title II, § 204, as added July 16, 1952, ch. 877, § 1, 66 Stat. 696, set out procedures for giving notice of findings and orders.

Section 475, act May 7, 1941, ch. 87, title II, § 205, as added July 16, 1952, ch. 877, § 1, 66 Stat. 697, and amended Mar. 26, 1966, Pub. L. 89-376, § 3(c), (d), 80 Stat. 87, authorized the continuation of the Federal Coal Mine Safety Board of Review and provided for its composition, powers, and procedures.

Section 476, Act May 7, 1941, ch. 87, title II, § 206, as added July 16, 1952, ch. 877, § 1, 66 Stat. 699, and amended Mar. 26, 1966, Pub. L. 89-376, § 3(e), 80 Stat. 88, set out procedures for the Director of the Bureau of Mines to review applications for annulment or revision of orders closing mines because of immediate and nonimmediate dangers.

Section 477, act May 7, 1941, ch. 87, title II, § 207, as added July 16, 1952, ch. 877, § 1, 66 Stat. 700, and amended June 11, 1960, Pub. L. 86-507, § 1(22), (23), 74 Stat. 201; Mar. 26, 1966, Pub. L. 89-376, § 3(f), 80 Stat. 90, set out procedures for review by the Federal Coal Mine Safety Board of Review of applications for annulment or revision of orders closing mines because of immediate or nonimmediate dangers.

Section 478, act May 7, 1941, ch. 87, title II, § 208, as added July 16, 1952, ch. 877, § 1, 66 Stat. 702, and amended June 11, 1960, Pub. L. 86-507, § 1(24), 74 Stat. 201, set out procedures for judicial review of orders by the Federal Coal Mine Safety Board of Review.

Section 479, act May 7, 1941, ch. 87, title II, § 209, as added July 16, 1952, ch. 877, § 1, 66 Stat. 703 set out mandatory mine safety provisions respecting roof support, ventilation, coal dust and rock dust, electrical equipment, fire protection, and other miscellaneous matters.

Section 480, act May 7, 1941, ch. 87, title II, § 210, as added July 16, 1952, ch. 877, § 1, 66 Stat. 708, and amended Mar. 26, 1966, Pub. L. 89-376, § 4, 80 Stat. 91, set out penalties for violations of provisions of sections 473 or 476 of this title.

Section 481, act May 7, 1941, ch. 87, title II, § 211, as added July 16, 1952, ch. 877, § 1, 66 Stat. 708, provided for the effect on State laws of provisions of sections 471 to 483 of this title.

Section 482, act May 7, 1941, ch. 87, title II, § 212, as added July 16, 1952, ch. 877, § 1, 66 Stat. 709, and amended Mar. 26, 1966, Pub. L. 89-376, § 5, 80 Stat. 91, set out procedures for issuance of certificates of equipment conformity, expanded educational programs, directed Federal agencies to coordinate their activities with State agencies to eliminate duplication of efforts, expenses and enforcement requirements, and provided that the Director annually report on the administration of his functions.

Section 483, act May 7, 1941, ch. 87, title II, § 213, as added July 16, 1952, ch. 877, § 1, 66 Stat. 709, provided that the Administrative Procedure Act was not to be applicable to provisions of sections 471 to 483 of this title.

The subject matter formerly contained in this chapter is now covered by section 801 et seq. of this title.

CHAPTER 11—MINING CLAIMS ON LANDS SUBJECT TO MINERAL LEASING LAWS

Sec.

501. Mining claims located between July 31, 1939 and January 1, 1953.
(a) Force and effect.
(b) Labor and improvement.
(c) Withdrawal or reservation.
502. Reservation of minerals to the United States; rights of entry, disposition and removal.
503. Reservations required by law; atomic energy materials.
504. Power to make arrangements respecting atomic energy materials as unaffected.
505. Definition of mineral leasing laws.

Chapter Referred to in Other Sections

This chapter is referred to in section 521 of this title; title 42 section 2098.

§ 501. Mining claims located between July 31, 1939 and January 1, 1953

(a) Force and effect

Subject to the provisions of this chapter and to any valid intervening rights acquired under laws of the United States, any mining claim located under the mining laws of the United States subsequent to July 31, 1939, and prior to January 1, 1953, on lands of the United States which were, at the time of such location—

(1) included in a permit or lease issued under the mineral leasing laws; or

(2) covered by an application or offer for a permit or lease which had been filed under the mineral leasing laws; or

(3) known to be valuable for minerals subject to disposition under the mineral leasing laws;

shall be effective to the same extent as if such mining claim had been located on lands which were at the time of such location subject to location under the mining laws of the United States: *Provided, however,* That in order to obtain the benefits of this chapter, the owner of any such mining claim shall, not later than one hundred and twenty days after August 12, 1953, post on such claim in the manner required for posting notice of location of mining claims and file for record in the office where the notice or certificate of location of such claim is of record an amended notice of location of such claim, stating that such notice is filed pursuant to the provisions of this chapter and for the purpose of obtaining the benefits thereof.

(b) Labor and improvement

Labor performed or improvements made upon or for the benefit of such mining claims after the original location thereof shall be recognized as applicable thereto for all purposes to the same extent as labor performed and improvements made upon or for the benefit of mining claims which are not affected by this chapter.

(c) Withdrawal or reservation

Any withdrawal or reservation made after the original location of such mining claim affecting land covered by such mining claim is modified and amended so that the effect thereof upon such mining claim shall be the same as if such mining claim had been located upon lands of the United States, which, subsequent to July 31, 1939, and prior to the date of such withdrawal, were subject to location under the mining laws of the United States.

(Aug. 12, 1953, ch. 405, § 1, 67 Stat. 539.)

References in Text

The mining laws of the United States, referred to in subsecs. (a) and (c), are classified generally to this title.

For definition of "mineral leasing laws", referred to in subsecs. (a)(1) to (3), see section 505 of this title.

Section Referred to in Other Sections

This section is referred to in sections 502, 504 of this title; title 42 section 2098.

§ 502. Reservation of minerals to the United States; rights of entry, disposition and removal

Any mining claim given force and effect as provided in section 501 of this title shall be subject to the reservation to the United States of all minerals which, upon August 12, 1953, are provided in the mineral leasing laws to be disposed of thereunder, and the right of the United States, its lessees, permittees, and licensees, to enter upon the land covered by such mining claim to prospect for, mine, treat, store, and remove such minerals, and to use so much of the surface and subsurface of such mining claim as may be necessary for such purposes, and to enter upon such land whenever reasonably necessary for the purpose of prospecting for, mining, treating, storing, and removing such minerals on and from other lands of the United States; and any patent issued for any such mining claim shall contain such reservation.

(Aug. 12, 1953, ch. 405, § 2, 67 Stat. 539.)

References in Text

For definition of "mineral leasing laws", see section 505 of this title.

Section Referred to in Other Sections

This section is referred to in title 42 section 2098.

§ 503. Reservations required by law; atomic energy materials

The rights under any mining claim given force and effect by this chapter shall also be subject to the reservation to the United States specified in section 5(b)(7) of the Atomic Energy Act of 1946, as amended, and, in addi-

tion, any reservation or reservations required by any other provision or provisions of law; and any patent issued for such mining claim shall contain such reservations.

(Aug. 12, 1953, ch. 405, § 3, 67 Stat. 540.)

REFERENCES IN TEXT

Section 5(b)(7) of the Atomic Energy Act of 1946, as amended, referred to in text, was formerly classified to section 1805(b)(7) of Title 42, The Public Health and Welfare, and prohibited any benefit to a person from confidential information acquired from participation in development of atomic energy program respecting deposits of fissionable source materials on public lands. Such provisions are now covered in section 68(a), (b) of the Atomic Energy Act of 1954, as amended, classified to section 2098(a), (b) of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2098.

§ 504. Power to make arrangements respecting atomic energy materials as unaffected

Except as this chapter provides for (a) validation of certain mining claims located on lands described in section 501 of this title, and (b) the modification and amendment of certain withdrawals or reservations of land, nothing in this chapter shall affect any power or authority duly vested in the Atomic Energy Commission or any other agency, department or officer of the United States to make leases, withdrawals, reservations or other arrangements with respect to source materials as defined in section 5(b)(1) of the Atomic Energy Act of 1946, as amended.

(Aug. 12, 1953, ch. 405, § 4, 67 Stat. 540.)

REFERENCES IN TEXT

Section 5(b)(1) of the Atomic Energy Act of 1946, as amended, referred to in text, was formerly classified to section 1805(b)(1) of Title 42, The Public Health and Welfare, and defined "source material", now so defined in section 11(z) of the Atomic Energy Act of 1954, as amended, classified to section 2014(z) of Title 42.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2098.

§ 505. Definition of mineral leasing laws

As used in this chapter "mineral leasing laws" shall mean the Act of October 20, 1914 (38 Stat. 741); the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057) and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts.

(Aug. 12, 1953, ch. 405, § 5, 67 Stat. 540.)

REFERENCES IN TEXT

The Act of October 20, 1914, referred to in text, is act Oct. 20, 1914, ch. 330, 38 Stat. 741, popularly known as the Alaska Coal Lands Act, which was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. The subject matter of this Act is now generally covered by subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code prior to repeal, see Tables volume.

The Act of February 25, 1920, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, popularly known as the Mineral Lands Leasing Act, which is classified generally to subchapters I to VII (§ 181 et seq.) of Chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

Act April 17, 1926, referred to in text, is act Apr. 17, 1926, ch. 158, 44 Stat. 301, which is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Tables volume.

Act February 7, 1927, referred to in text, is act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted subchapter IX (§ 281 et seq.) of chapter 3A of this title, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2098.

CHAPTER 12—MULTIPLE MINERAL DEVELOPMENT OF THE SAME TRACTS

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CROSS REFERENCES

Provisions of chapter not amended or repealed by provisions respecting entry and location on coal lands on discovery of source material, see section 541h of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 541, 541b, 541h, 1005 of this title.

§ 521. Mineral leasing claims

(a) Preference categories

Subject to the conditions and provisions of this chapter and to any valid intervening rights acquired under the laws of the United States, any mining claim located under the mining laws of the United States subsequent to July 31, 1939, and prior to February 10, 1954, on lands of the United States, which at the time of location were—

(1) included in a permit or lease issued under the mineral leasing laws; or

(2) covered by an application or offer for a permit or lease which had been filed under the mineral leasing laws; or

(3) known to be valuable for minerals subject to disposition under the mineral leasing laws,

shall be effective to the same extent in all respects as if such lands at the time of location, and at all times thereafter, had not been so included or covered or known: *Provided, however,* That, in order to be entitled to the benefits of this chapter, the owner of any such mining claim located prior to January 1, 1953, must have posted and filed for record, within the time allowed by the provisions of chapter 11 of this title, an amended notice of location as to such mining claim, stating that such notice was filed pursuant to the provisions of said chapter 11 and for the purpose of obtaining the benefits thereof: *And provided further,* That in order to obtain the benefits of this chapter, the owner of any such mining claim located subsequent to December 31, 1952, and prior to February 10, 1954, not later than one hundred and twenty days after August 13, 1954, must post on such claim in the manner required for posting notice of location of mining claims and file for record in the office where the notice or certificate of location of such claim is of record an amended notice of location for such claim, stating that such notice is filed pursuant to the provisions of this chapter and for the purpose of obtaining the benefits thereof and, within said one hundred and twenty day period, if such owner shall have filed a uranium lease application as to the tract covered by such mining claim, must file with the Atomic Energy Commission a withdrawal of such uranium lease application or, if a uranium lease shall have issued pursuant thereto, a release of such lease, and must record a notice of the filing of such withdrawal or release in the county office wherein such notice or certificate of location shall have been filed for record.

(b) Labor and improvements

Labor performed or improvements made after the original location of and upon or for the benefit of any mining claim which shall be entitled to the benefits of this chapter under the provisions of subsection (a) of this section, shall be recognized as applicable to such mining claim for all purposes to the same extent as if the validity of such mining claim were in no respect dependent upon the provisions of this chapter.

(c) Withdrawal or reservation of lands

As to any land covered by any mining claim which is entitled to the benefits of this chapter under the provisions of subsection (a) of this section, any withdrawal or reservation of lands made after the original location of such mining claim is hereby modified and amended so that the effect thereof upon such mining claim shall be the same as if such mining claim had been located upon lands of the United States which, subsequent to July 31, 1939, and prior to the date of such withdrawal or reservation, were subject to location under the mining laws of the United States.

(Aug. 13, 1954, ch. 730, § 1, 68 Stat. 708.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in subsecs. (a) and (c), are classified generally to this title.

For definition of "mineral leasing laws", referred to in subsecs. (a)(1) to (3) see section 530 of this title.

SHORT TITLE

Act Aug. 13, 1954, ch. 730, 68 Stat. 708, which enacted this chapter, amended section 1805 of Title 42, The Public Health and Welfare, and enacted provisions formerly set out as a note under section 1805 of Title 42, is popularly known as the Multiple Mineral Development Act.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SEPARABILITY OF PROVISIONS

Section 13 of act Aug. 13, 1954, provided that: "If any provision of this Act [this chapter], or the application of such provision to any person or circumstances, is held unconstitutional, invalid, or unenforcible, the remainder of this Act [this chapter] or the application of such provision to persons or circumstances other than those as to which it is held unconstitutional, invalid, or unenforcible, shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 524 of this title.

§ 522. Conflicting periods of location of claims

(a) If any mining claim which shall have been located subsequent to December 31, 1952, and prior to December 11, 1953, and which shall be entitled to the benefits of this chapter, shall cover any lands embraced within any mining claim which shall have been located prior to January 1, 1953, and which shall be entitled to the benefits of this chapter, then as to such area of conflict said mining claim so located subsequent to December 31, 1952, shall be deemed to have been located December 11, 1953.

(b) If any mining claim hereafter located shall cover any lands embraced within any mining claim which shall have been located prior to February 10, 1954, and which shall be entitled to the benefits of this chapter, then as to such area of conflict said mining claim here-

after located shall be deemed to have been located one hundred and twenty-one days after August 13, 1954.

(Aug. 13, 1954, ch. 730, § 2, 68 Stat. 709.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 524 of this title.

§ 523. Uranium leases

(a) Right to locate mining claims

Subject to the conditions and provisions of this chapter and to any valid prior rights acquired under the laws of the United States, the owner of any pending uranium lease application or of any uranium lease shall have, for a period of one hundred and twenty days after August 13, 1954, as limited in subsection (b) of this section, the right to locate mining claims upon the lands covered by said application or lease.

(b) Priorities and conflicting rights; termination of rights

Any rights under any such mining claim so hereafter located pursuant to the provisions of subsection (a) of this section shall be subject to any rights of the owner of any mining claim which was located prior to February 10, 1954, and which was valid on August 13, 1954 or which may acquire validity under the provisions of this chapter. As to any lands covered by a uranium lease and also by a pending uranium lease application, the right of mining location under this section, as between the owner of said lease and the owner of said application, shall be deemed as to such conflict area to be vested in the owner of said lease. As to any lands embraced in more than one such pending uranium lease application, such right of mining location, as between the owners of such conflicting applications, shall be deemed to be vested in the owner of the prior application. Priority of such an application shall be determined by the time of posting on a tract then available for such leasing of a notice of lease application in accordance with paragraph (c) of the Atomic Energy Commission's Domestic Uranium Program Circular 7 (10 C.F.R. 60.7 (c)) provided there shall have been timely compliance with the other provisions of said paragraph (c) or, if there shall not have been such timely compliance, then by the time of the filing of the uranium lease application with the Atomic Energy Commission. Any rights under any mining claim located under the provisions of this section shall terminate at the expiration of thirty days after the filing for record of the notice or certificate of location of such mining claim unless, within said thirty-day period, the owner of the uranium lease application or uranium lease upon which the location of such mining claim was predicated shall have filed with the Atomic Energy Commission a withdrawal of said application or a release of said lease and shall have recorded a notice of the filing of such withdrawal or release in the county office wherein such notice or certificate of location shall be of record.

(c) Future claims on lands covered by application or lease

Except as otherwise provided in subsections (a) and (b) of this section, no mining claim hereafter located shall be valid as to any lands which at the time of such location were covered by a uranium lease application or a uranium lease. Any tract upon which a notice of lease application has been posted in accordance with said paragraph (c) of said Circular 7 shall be deemed to have been included in a uranium lease application from and after the time of the posting of such notice of lease application: *Provided,* That there shall have been timely compliance with the other provisions of said paragraph (c) or, if there shall not have been such timely compliance, then from and after the time of the filing of a uranium lease application with the Atomic Energy Commission.

(Aug. 13, 1954, ch. 730, § 3, 68 Stat. 709.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 524 of this title.

§ 524. Reservation of minerals to United States

Every mining claim or millsite—

(1) heretofore located under the mining laws of the United States which shall be entitled to benefits under sections 521 to 523 of this title; or

(2) located under the mining laws of the United States after August 13, 1954 shall be subject, prior to issuance of a patent therefor, to a reservation to the United States of all Leasing Act minerals and of the right (as limited in section 526 of this title) of the United States, its lessees, permittees, and licensees to enter upon the land covered by such mining claim or millsite and to prospect for, drill for, mine, treat, store, transport, and remove Leasing Act minerals and to use so much of the surface and subsurface of such mining claim or millsite as may be necessary for such purposes, and whenever reasonably necessary, for the purpose of prospecting for, drilling for, mining, treating, storing, transporting, and removing Leasing Act minerals on and from other lands; and any patent issued for any such mining claim or millsite shall contain such reservation as to, but only as to, such lands covered thereby which at the time of the issuance of such patent were—

(a) included in a permit or lease issued under the mineral leasing laws; or

(b) covered by an application or offer for a permit or lease filed under the mineral leasing laws; or

(c) known to be valuable for minerals subject to disposition under the mineral leasing laws.

(Aug. 13, 1954, ch. 730, § 4, 68 Stat. 710.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

For definitions of "Leasing Act minerals" and "mineral leasing laws", referred to in par. (2), see section 530 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 527, 528 of this title.

§ 525. Future location of claims on mineral lands

Subject to the conditions and provisions of this chapter, mining claims and millsites may hereafter be located under the mining laws of the United States on lands of the United States which at the time of location are—

(a) included in a permit or lease issued under the mineral leasing laws; or

(b) covered by an application or offer for a permit or lease filed under the mineral leasing laws; or

(c) known to be valuable for minerals subject to disposition under the mineral leasing laws;

to the same extent in all respects as if such lands were not so included or covered or known.

(Aug. 13, 1954, ch. 730, § 5, 68 Stat. 710.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

For definition of "mineral leasing laws", referred to in clauses (a) to (c), see section 530 of this title.

§ 526. Mining and Leasing Act operations

(a) Multiple use

Where the same lands are being utilized for mining operations and Leasing Act operations, each of such operations shall be conducted, so far as reasonably practicable, in a manner compatible with such multiple use.

(b) Mining operations to avoid damage to mineral deposits and interference with mineral operations

Any mining operations pursuant to rights under any unpatented or patented mining claim or millsite which shall be subject to a reservation to the United States of Leasing Act minerals as provided in this chapter, shall be conducted, so far as reasonably practicable, in a manner which will avoid damage to any known deposit of any Leasing Act mineral. Subject to the provisions of subsection (d) of this section, mining operations shall be so conducted as not to endanger or materially interfere with any existing surface or underground improvements, workings, or facilities which may have been made for the purpose of Leasing Act operations, or with the utilization of such improvements, workings, or facilities.

(c) Leasing Act operations to avoid damage to mineral deposits and interference with mining operations

Any Leasing Act operations on lands covered by an unpatented or patented mining claim or millsite which shall be subject to a reservation to the United States of Leasing Act minerals as provided in this chapter shall be conducted, so far as reasonably practicable, in a manner which will avoid damage to any known deposit of any mineral not so reserved from such mining claim or millsite. Subject to the provisions of subsection (d) of this section, Leasing Act operations shall be so conducted as not to endanger or materially interfere with any existing surface or underground improvements, workings, or facilities which may have been made for the purpose of mining operations, or with the utilization of such improvements, workings, or facilities.

(d) Damage or interference permitted by court

If, upon petition of either the mining operator or the Leasing Act operator, any court of competent jurisdiction shall find that a particular use in connection with one of such operations cannot be reasonably and properly conducted without endangering or materially interfering with the then existing improvements, workings, or facilities of the other of such operations or with the utilization thereof, and shall find that under the conditions and circumstances, as they then appear, the injury or damage which would result from denial of such particular use would outweigh the injury or damage which would result to such then existing improvements, workings, or facilities or from interference with the utilization thereof if that particular use were allowed, then and in such event such court may permit such use upon payment (or upon furnishing of security determined by the court to be adequate to secure payment) to the party or parties who would be thus injured or damaged, of an amount to be fixed by the court as constituting fair compensation for the then reasonably contemplated injury or damage which would result to such then existing improvements, workings, or facilities or from interference with the utilization thereof by reason of the allowance of such particular use.

(e) Information regarding operations to be furnished on request

Where the same lands are being utilized for mining operations and Leasing Act operations, then upon request of the party conducting either of said operations, the party conducting the other of said operations shall furnish to and at the expense of such requesting party copies of any information which said other party may have, as to the situs of any improvements, workings, or facilities theretofore made upon such lands, and upon like request, shall permit such requesting party, at the risk of such requesting party, to have access at reasonable times to any such improvements, workings, or facilities for the purpose of surveying and checking or determining the situs thereof. If damage to or material interference with a party's improvements, workings, facilities, or with the utilization thereof shall result from such party's failure, after request, to so furnish to the requesting party such information or from denial of such access, such failure or denial shall relieve the requesting party of any liability for the damage or interference resulting by reason of such failure or denial. Failure of a party to furnish requested information or access shall not impose upon such party any liability to the requesting party other than for such costs of court and attorney's fees as may be allowed to the requesting party in enforcing by court action the obligations of this section

as to the furnishing of information and access. The obligation hereunder of any party to furnish requested information shall be limited to map and survey information then available to such party with respect to the situs of improvements, workings, and facilities and the furnishing thereof shall not be deemed to constitute any representation as to the accuracy of such information.

(Aug. 13, 1954, ch. 730, § 6, 68 Stat. 710.)

REFERENCES IN TEXT

For definitions of Leasing Act operations, referred to in subsecs. (a) to (c) and (e); Leasing Act minerals, referred to in subsecs. (b) and (c); and Leasing Act operator, referred to in subsec. (d), see section 530 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 524 of this title.

§ 527. Determination of unpatented mining claims

(a) Filing of notice

Any applicant, offeror, permittee, or lessee under the mineral leasing laws may file in the office of the Secretary of the Interior, or in such office as the Secretary may designate, a request for publication of notice of such application, offer, permit, or lease, provided expressly, that not less than ninety days prior to the filing of such request for publication there shall have been filed for record in the county office of record for the county in which the lands covered thereby are situate a notice of the filing of such application or offer or of the issuance of such permit or lease which notice shall set forth the date of such filing or issuance, the name and address of the applicant, offeror, permittee or lessee and the description of the lands covered by such application, offer, permit or lease, showing the section or sections of the public land surveys which embrace the lands covered by such application, offer, permit, or lease, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public lands surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The filing of such request for publication shall be accompanied by a certified copy of such recorded notice and an affidavit or affidavits of a person or persons over twenty-one years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's, abstractor's, or attorney's examination of the instruments affecting the lands involved, of record in the public records of the county in which said lands are situate as shown by the indices of the public records in the county office of record for said county, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if disclosed by such instruments of record.

Thereupon the Secretary of the Interior, or his designated representative, at the expense of the requesting person (who, prior to the commencement of publication, must furnish the agreement of the publisher to hold such requesting person alone responsible for charges of publication), shall cause notice of such application, offer, permit, or lease to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such application, offer, permit, or lease, as provided heretofore in the notice to be filed in the office of record of the county in which the lands covered are situate, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, any right or interest in Leasing Act minerals as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within one hundred fifty days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim:

(1) The date of location;

(2) The book and page of recordation of the notice or certificate of location;

(3) The section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;

(4) Whether such claimant is a locator or purchaser under such location; and

(5) The name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any and all right, title, and interest under such mining claim as to, but only as to, Leasing Act minerals, and (ii) to constitute a consent by such mining claimant that such mining claim and any patent issued therefor, shall be subject to the reservation specified in section 524 of this title, and (iii) to preclude thereafter any assertion by such mining claimant of any right or title to or interest in any

Leasing Act mineral by reason of such mining claim.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for nine consecutive weeks, or, if in a weekly paper, in nine consecutive issues, or, if in a semiweekly or triweekly paper, in the issue of the same day of each week for nine consecutive weeks.

Within fifteen days after the date of first publication of such notice, the person requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail or by certified mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section, and shall cause a copy of such notice to be mailed by registered mail or by certified mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) Failure to file verified statement

If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section shall fail to file a verified statement, as above provided, within one hundred and fifty days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section, (i) to constitute a waiver and relinquishment by such mining claimant of any and all right, title, and interest under such mining claim as to, but only as to, Leasing Act minerals, and (ii) to constitute a consent by such mining claimant that such mining claim and any patent issued therefor, shall be subject to the reservation specified in section 524 of this title, and (iii) to preclude thereafter any assertion by such mining claimant of any right or title to or interest in any Leasing Act mineral by reason of such mining claim.

(c) Hearings

If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section, then the Secretary of the Interior or his designated representative shall fix a time and place for a hearing to determine the validity and effectiveness of the mining claimant's asserted right or interest in Leasing Act minerals, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pursuant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's right or interest under the mining claim as to Leasing Act minerals, then no subsequent proceedings under this section shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the person requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Request for copy of notice

Any person claiming any right in Leasing Act minerals under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice of any application, offer, permit, or lease which may be published as above provided in subsection (a) of this section, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each mining claim under which such person asserts rights in Leasing Act minerals:

(1) the date of location;

(2) the book and page of the recordation of the notice or certificate of location; and

(3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) Failure to deliver or mail copy of notice

If any applicant, offeror, permittee, or lessee shall fail to comply with the requirements of subsection (a) of this section as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified state-

ment, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

(Aug. 13, 1954, ch. 730, § 7, 68 Stat. 711; June 11, 1960, Pub. L. 86-507, § 1(25), 74 Stat. 201.)

REFERENCES IN TEXT

For definitions of "mineral leasing laws", referred to in first undesignated par. of subsec. (a), and "Leasing Act minerals", referred to in fifth undesignated par. of subsec. (a) and subsecs. (b) to (d), see section 530 of this title.

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" following "registered mail" in two instances in the last paragraph.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 226 of this title.

§ 528. Waiver and relinquishment of mineral rights

The owner or owners of any mining claim heretofore located may, at any time prior to issuance of patent therefor, waive and relinquish all rights thereunder to Leasing Act minerals. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter subject to the reservation referred to in section 524 of this title and any patent issued therefor shall contain such a reservation, but no such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

(Aug. 13, 1954, ch. 730, § 8, 68 Stat. 715.)

REFERENCES IN TEXT

For definition of "Leasing Act minerals", see section 530 of this title.

§ 529. Helium lands subject to entry

Lands withdrawn from the public domain which are within (a) Helium Reserve Numbered 1, pursuant to Executive orders of March 21, 1924, and January 28, 1926, and (b) Helium Reserve Numbered 2 pursuant to Executive Order 6184 of June 26, 1933, shall be subject to entry and location under the mining laws of the United States, and to permit and lease under the mineral leasing laws, upon determination by the Secretary of the Interior, based upon available geologic and other information, that there is no reasonable probability that operations pursuant to entry or location of the particular lands under the mining laws, or pursuant to a permit or lease of the particular lands under the Mineral Leasing Act [30 U.S.C. 181 et seq.], will result in the extraction or cause loss or waste of the helium-bearing gas in the lands of such reserves: *Provided,* That the lands shall not become subject to entry, location, permit or lease until such time as the Secretary designates in an order published in the Federal Register: *And provided further,* That the Secretary may at any time as a condition to continued mineral operations require the entryman, locator, permittee or lessee to take such measures either above or below the surface of the lands as the Secretary deems necessary to prevent loss or waste of the helium-bearing gas.

(Aug. 13, 1954, ch. 730, § 9, 68 Stat. 715.)

REFERENCES IN TEXT

The Mineral Leasing Act, referred to in text, probably means the Mineral Lands Leasing Act, act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out section 181 of this title and Tables volume. For definition of Mineral Leasing Laws, see section 530 of this title.

CROSS REFERENCES

Cooperative Forest Service research funds excepted, see section 581i-1 of Title 16, Conservation.

§ 530. Definitions

As used in this chapter "mineral leasing laws" shall mean the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); Geothermal Steam Act of 1970 [30 U.S.C. 1001 et seq.]; and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts; "Leasing Act minerals" shall mean all minerals which, upon August 13, 1954, are provided in the mineral leasing laws to be disposed of thereunder and all geothermal steam and associated geothermal resources which, upon the effective date of the Geothermal Steam Act of 1970, are provided in that Act to be disposed of thereunder; "Leasing Act operations" shall mean operations conducted under a lease, permit, or license issued under the mineral leasing laws in or incidental to prospecting for, drilling for, mining, treating, storing, transporting, or removing Leasing Act minerals; "mining operations" shall mean operations under any unpatented or patented mining claim or millsite in or incidental to prospecting for, mining, treating, storing, transporting, or removing minerals other than Leasing Act minerals and any other use under any claim of right or title based upon such mining claim or millsite; "Leasing Act operator" shall mean any party who shall conduct Leasing Act operations; "mining operator" shall mean any party who shall conduct mining operations; "Atomic Energy Act" shall mean the Act of August 1, 1946 (60 Stat. 755), as amended [42 U.S.C. 2011 et seq.]; "Atomic Energy Commission" shall mean the United States Atomic Energy Commission established under the Atomic Energy Act or any amendments thereof; "fissionable source material" shall mean uranium, thorium, and all other materials referred to in section 5(b)(1) of the Atomic Energy Act, as amended, as reserved or to be reserved to the United States; "uranium lease application" shall mean an application for a uranium lease filed with said Commission with respect to lands which would be open for entry under the mining laws except for their being lands embraced within an offer, application, permit, or lease under the mineral leasing laws or lands known to be valuable for minerals leasable under those laws; "uranium lease" shall mean a uranium mining lease issued by said Commission with respect to any such lands; and

"person" shall mean any individual, corporation, partnership, or other legal entity.

(Aug. 13, 1954, ch. 730, § 11, 68 Stat. 716; Dec. 24, 1970, Pub. L. 91-581, § 26, 84 Stat. 1573.)

REFERENCES IN TEXT

The Act of February 25, 1920, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, popularly known as the Mineral Lands Leasing Act, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

Act April 17, 1926, referred to in text, is act Apr. 17, 1926, ch. 158, 44 Stat. 301, which is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Tables volume.

Act February 7, 1927, referred to in text, is act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted subchapter IX (§ 281 et seq.) of chapter 3A of this title, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

The Geothermal Steam Act of 1970, referred to in text, is Pub. L. 91-581, Dec. 24, 1970, 84 Stat. 1566, which is classified principally to chapter 23 (§ 1001 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of this title and Tables volume.

The effective date of the Geothermal Steam Act of 1970, referred to in text, probably means the date of enactment of Pub. L. 91-581, which was Dec. 24, 1970.

The Atomic Energy Act, referred to in text, is a reference to the Atomic Energy Act of 1946 (act Aug. 1, 1946, ch. 724, 60 Stat. 755), prior to its complete amendment and revision by the Atomic Energy Act of 1954, act Aug. 30, 1954, ch. 1073, 68 Stat. 921, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, the Public Health and Welfare. For further details see Codification note set out under sections 1801 to 1819 of Title 42 and Short Title note set out under section 2011 of Title 42. For complete classification of this Act to the Code, see Tables volume.

Section 5(b)(1) of the Atomic Energy Act of 1946, as amended, referred to in text, was formerly classified to section 1805(b)(1) of Title 42 and defined "source material". Such provisions are now covered in section 11(z) of Atomic Energy Act of 1954, as amended, classified to section 2014(z) of Title 42.

AMENDMENTS

1970—Pub. L. 91-581 redefined "mineral leasing laws" to exclude "the Act of October 20, 1914" and to include "Geothermal Steam Act of 1970" and "Leasing Act minerals" to include "all geothermal steam and associated geothermal resources which, upon the effective date of the Geothermal Steam Act of 1970, are provided in that Act to be disposed of thereunder".

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

§ 531. Approval of United States officials

Nothing in this chapter shall be construed to waive, amend, or repeal the requirement of any provision of any law for approval of any official of the United States whose approval prior to prospecting, exploring, or mining would be required.

(Aug. 13, 1954, ch. 730, § 12, 68 Stat. 717.)

CHAPTER 12A—ENTRY AND LOCATION OF COAL LANDS ON DISCOVERY OF SOURCE MATERIAL

Sec.
541. Entry and location; filing of copy of notice of mining location; report and payment for lignite mined; mineral patents; reservation of minerals to United States.
541a. Claims located prior to May 25, 1955; extralateral rights; amended notice of mining location.
541b. Mining, removal, and disposal of lignite.
541c. Lands where coal deposits have been reserved to the United States.
541d. Location of source materials by holders of coal leases.
541e. Definitions.
541f. Disbursement of moneys.
541g. Rules and regulations.
541h. Savings provisions.
541i. Withdrawal of lands from entry; expiration of claims.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 1907.

§ 541. Entry and location; filing of copy of notice of mining location; report and payment for lignite mined; mineral patents; reservation of minerals to United States

Subject to the conditions and provisions of this chapter and to any valid intervening rights acquired under the laws of the United States, public lands of the United States classified as or known to be valuable for coal subject to disposition under the mineral leasing laws and which are open to location and entry subject to the conditions and provisions of chapter 12 of this title, unless embraced within a coal prospecting permit or lease, shall also be open to location and entry under the mining laws of the United States upon the discovery of a valuable source material occurring within any seam, bed, or deposit of lignite in such lands: *Provided*, That a copy of the notice of any mining location made for source material occurring in any such bed, seam, or deposit, shall be filed for record in the land office of the Bureau of Land Management for the State in which the claim is situated within ninety days after the date of its location: *Provided further*, That the claimant to any such mining location shall report annually to the Mining Supervisor of the Geological Survey the amount of lignite mined or stripped in the recovery of such valuable source material during each calendar year and tender payment to him of 10 cents per ton thereon. Any mineral patents issued hereunder shall be made subject to the recording and payment requirements of this section and shall contain a reservation to the United States of all Leasing Act minerals owned by the United States other than lignite containing valuable source material and lignite necessary to be stripped or mined in the recovery of such material. Mining claims located and mineral patents issued under the provisions of this chapter shall not include rights to lignite not containing valuable source material except to the extent it may be necessary to mine or strip such lignite in order to mine the source

material and, with respect to lode claims, shall not include extralateral rights. For all purposes of this chapter "source material" and "lignite" shall have the meanings given in section 541e of this title.

(Aug. 11, 1955, ch. 795, § 1, 69 Stat. 679.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

For definition of "mineral leasing laws" and "Leasing Act minerals", see section 541e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 541a, 541b, 541c, 541i of this title.

§ 541a. Claims located prior to May 25, 1955; extralateral rights; amended notice of mining location

Any mining claim located in a manner prescribed by the mining laws of the United States upon lands of the character described in section 541 of this title, prior to May 25, 1955, if based upon a discovery of valuable source material contained in lignite shall be effective to the same extent as if such lands at the time of location, and at all times thereafter, had not been classified as or known to be valuable for coal subject to disposition under the mineral leasing laws, subject, however, to the provisions of section 541 of this title: *Provided*, That no extralateral rights shall attach to any mining location validated under this section: *And provided further*, That the locator or locators of such a mining claim shall, not later than one hundred and eighty days from and after August 11, 1955, post on the claim and file for record in the office where the notice or certificate of location is of record, an amended notice of the mining location stating that such amended notice is filed pursuant to the provisions of this chapter and for the purpose of obtaining the benefits thereof; and that a copy of said amended notice is, within the said one-hundred-and-eighty-day period, filed in the land office of the Bureau of Land Management for the State in which the mining location is situated, and the mining locator thereafter complies with the requirements of this chapter.

(Aug. 11, 1955, ch. 795, § 2, 69 Stat. 679.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

For definition of "mineral leasing laws", see section 541e of this title.

EXTENSION OF TIME FOR ANNUAL ASSESSMENT WORK

Act June 29, 1956, ch. 478, 70 Stat. 438, as amended by Pub. L. 85-68, June 29, 1957, 71 Stat. 226, provided for extension of time for period commencing July 1, 1955, to 12 o'clock noon July 1, 1958, during which labor must be performed, or improvements made pursuant to section 28 of this title, or any unpatented mining claim validated under this section and for extension of time for period commencing July 1, 1956, to 12 o'clock noon July 1, 1958, during which labor must be performed, or improvements made pursuant to section 28 of this title, on any other unpatented mining claim subject to this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 541b of this title.

§ 541b. Mining, removal, and disposal of lignite

Subject to the provisos of section 541a of this title, any mining location made under the mining laws of the United States, including chapter 12 of this title, on lands of the character described in section 541 of this title, except locations made for lands within the exterior boundaries of a prior coal prospecting permit or lease, if based upon a discovery of valuable source material in deposits other than deposits of Leasing Act minerals, shall include the right to mine, remove, and dispose of lignite containing valuable source material and lignite necessary to be stripped or mined in the recovery of source material contained in lignite, subject to the reporting and payment requirements of section 541 of this title, and subject to the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et. seq.], and upon filing in the land office designated in section 541 of this title, an adequate description of his claim or claims containing such lignite: *Provided*, That nothing in this section shall be construed to limit or restrict the rights acquired by virtue of a mining claim heretofore or hereafter located, under the 1872 Mining Act, as amended, or to impose any additional obligation with respect to the mining and removal of source material which does not occur within any seam, bed, or deposit of lignite.

(Aug. 11, 1955, ch. 795, § 3, 69 Stat. 680.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

For definition of "Leasing Act minerals", see section 541e of this title.

The Atomic Energy Act of 1954, referred to in text, is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables volume.

The 1872 Mining Act, as amended, referred to in text, is act May 10, 1872, ch. 152, 17 Stat. 91, as amended, which was incorporated into the Revised Statutes of 1878 as R.S. §§ 2319 to 2328, 2331, 2333 to 2337, and 2344 and thence into the Code as sections 22 to 24, 26 to 28, 29, 30, 33 to 35, 37, 39 to 42, and 47 of this title. For complete classification of such Revised Statutes sections to the code, see Tables volume.

§ 541c. Lands where coal deposits have been reserved to the United States

The entryman or owner of any land or the assignee of rights therein, including lands granted to States, with respect to which the coal deposits have been reserved to the United States pursuant to the provisions of section 81 of this title or sections 83 to 85 of this title, excepting lands embraced within a coal prospecting permit or lease, upon the discovery of valuable source material in lignite situated within such entered, granted, or patented lands, who, except for the reservation of coal to the United States would have the right to mine and remove such source material, shall have the exclusive right to mine, remove, and dispose of lignite containing such source material and lignite necessary to be stripped or mined in the recovery of such material, subject to the report-

ing and payment requirements of section 541 of this title, and subject to the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.], upon filing in the land office designated in section 541 of this title, an adequate description sufficient to identify the land containing such lignite.

(Aug. 11, 1955, ch. 795, § 4, 69 Stat. 680.)

REFERENCES IN TEXT

The Atomic Energy Act of 1954, referred to in text, is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 541d of this title.

§ 541d. Location of source materials by holders of coal leases

The holders of coal leases issued under the provision of the mineral leasing laws, including chapter 7 of this title, prior to August 11, 1955, or thereafter if based upon a prospecting permit issued prior to that date, upon the discovery during the term of such lease of valuable source material in any bed or deposit of lignite situated within the leased lands, shall have the exclusive right to locate such source material under the provisions of this chapter but the mining and disposal of such source material shall be subject to the operating provisions of the lease and to the provisions of the Atomic Energy Act of 1954 [42 U.S.C. 2011 et seq.]: *Provided*, That the provisions of this section shall not apply to coal prospecting, permits or leases on lands embraced within entered, granted or patented lands described in section 541c of this title.

(Aug. 11, 1955, ch. 795, § 5, 69 Stat. 680.)

REFERENCES IN TEXT

For definition of "mineral leasing laws", see section 541e of this title.

The Atomic Energy Act of 1954, referred to in text, is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables volume.

§ 541e. Definitions

As used in this chapter "mineral leasing laws" shall mean the Act of October 20, 1914 (38 Stat. 741); the Act of February 25, 1920 (41 Stat. 437); the Act of April 17, 1926 (44 Stat. 301); the Act of February 7, 1927 (44 Stat. 1057); and all Acts heretofore or hereafter enacted which are amendatory of or supplementary to any of the foregoing Acts; "Leasing Act minerals" shall mean all minerals which, upon August 11, 1955, are provided in the mineral leasing laws to be disposed of thereunder; "lignite" shall mean coal classified as ASTM designation: D 388-38, according to the standards established in the American Society for Testing Materials on Coal and Coke under standard specifications for Classification of Coals by Rank, contained in public-land deposits considered as valuable under the coal-land classification standards established by the Secretary of the Interior and prescribed in section 30, Code of Federal Regulations, part 201; and "source material" shall mean uranium, thorium, or any other material which is determined by the Atomic Energy Commission pursuant to the provisions of section 2091 of title 42 to be source material.

(Aug. 11, 1955, ch. 795, § 6, 69 Stat. 680.)

REFERENCES IN TEXT

The Act of October 20, 1914, referred to in text, is act Oct. 20, 1914, ch. 330, 38 Stat. 741, popularly known as the Alaska Coal Lands Act, which was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. The subject matter of this Act is now generally covered by subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code prior to repeal, see Tables volume.

The Act of February 25, 1920, referred to in text, is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, popularly known as the Mineral Lands Leasing Act, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

Act April 17, 1926, referred to in text, is act Apr. 17, 1926, ch. 158, 44 Stat. 301, which is classified generally to subhcapter VIII (§ 271 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Tables volume.

Act February 7, 1927, referred to in text, is act Feb. 7, 1927, ch. 66, 44 Stat. 1057, which enacted subchapter IX (§ 281 et seq.) of chapter 3A of this title, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 541 of this title.

§ 541f. Disbursement of moneys

All moneys received under the provisions of this chapter shall be paid into the Treasury of the United States and distributed in the same manner as provided in section 191 of this title and sections 437, 438, and 439 of title 48.

(Aug. 11, 1955, ch. 795, § 7, 69 Stat. 681.)

REFERENCES IN TEXT

Sections 437, 438, and 439 of title 48, referred to in text, were repealed by Pub. L. 86-252, Sept. 9, 1959, 73 Stat. 490.

§ 541g. Rules and regulations

The Secretary of the Interior is authorized to issue such rules and regulations as may be necessary or appropriate to effectuate the purposes of this chapter.

(Aug. 11, 1955, ch. 795, § 8, 69 Stat. 681.)

§ 541h. Savings provisions

Nothing in this chapter shall be deemed to amend or repeal any provisions of chapter 12 of this title, or any right granted thereunder.

(Aug. 11, 1955, ch. 795, § 9, 69 Stat. 681.)

§ 541i. Withdrawal of lands from entry; expiration of claims

Twenty years after August 11, 1955, all lands subject to the provisions of section 541 of this title shall be withdrawn from all forms of entry under this chapter. All claims made pursuant to the provisions of this chapter shall expire at that time, except for (1) claims for which patent has already been issued, and (2) claims on which application for patent has already been made and on which patent is subsequently issued: *Provided*, That, if the President shall so provide by Executive order, the provisions of this section shall not become effective until thirty years after August 11, 1955.

(Aug. 11, 1955, ch. 795, § 10, 69 Stat. 681.)

CHAPTER 13—CONTROL OF COAL-MINE FIRES

Sec.
551. Declaration of policy.
552. Definitions.
553. Duties of Secretary; surveys, research, etc.; projects.
554. Lands subject to chapter.
555. Conditions precedent for aid to non-Federal lands.
(a) Enactment of local laws; agreements.
(b) Contributions.
556. Administration.
(a) Employment of personnel.
(b) Employment of equipment.
(c) Contractual authority.
(d) Acquisition of lands, etc.
(e) Property restoration.
(f) Contributions; cooperation with other agencies; disposition of monies.
557. Rules and regulations.
558. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 App. section 205.

§ 551. Declaration of policy

It is recognized that outcrop and underground fires in coal formations involve serious wastage of the fuel resources of the Nation, and constitute a menace to the health and safety of the public and to surface property. It is therefore declared to be the policy of the Congress to provide for the control and extinguishment of outcrop and underground coal fires and thereby to prevent injuries and loss of life, protect public health, conserve natural resources, and to preserve public and private surface property.

(Aug. 31, 1954, ch. 1156, § 1, 68 Stat. 1009.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 553 of this title.

§ 552. Definitions

As used in this chapter:

"Coal" means any of the recognized classifications and ranks of coal, including anthracite, bituminous, semibituminous, subbituminous, and lignite.

"Outcrop" means any place where a formation is visible or substantially exposed at the surface.

"Formation" means any vein, seam, stratum, bed, or other naturally occurring deposit.

"Coal mine" means any underground, surface, or strip mine from which coal is obtained.

"State" means any State or Territory of the United States, or any political subdivision thereof.

"Person" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons.

(Aug. 31, 1954, ch. 1156, § 2, 68 Stat. 1009.)

§ 553. Duties of Secretary; surveys, research, etc.; projects

The Secretary of the Interior, in order to effectuate the policy declared in section 551 of this title, is hereby authorized—

(a) to conduct surveys, investigations, and research relating to the causes and extent of outcrop and underground fires in coal formations and the methods for control or extinguishment of such fires; to publish the results of any such surveys, investigations, and researches; and to disseminate information concerning such method; and

(b) to plan and execute projects for control or extinguishment of fires in coal formations.

(Aug. 31, 1954, ch. 1156, § 3, 68 Stat. 1009.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 554, 555, 556 of this title.

§ 554. Lands subject to chapter

The acts authorized in section 553 of this title may be performed—

(a) on lands owned or controlled by the United States or any of its agencies, with the cooperation of the agency having jurisdiction thereof; and

(b) on any other lands, upon obtaining proper consent or the necessary rights or interests in such lands: *Provided, however*, That expenditure of Federal funds for this purpose in any privately owned operating coal mine shall be limited to the acts authorized in section 553(a) of this title.

(Aug. 31, 1954, ch. 1156, § 4, 68 Stat. 1009.)

§ 555. Conditions precedent for aid to non-Federal lands

(a) Enactment of local laws; agreements

As a condition to the extending of any benefits under section 553(b) of this title to any lands not owned or controlled by the United States or any of its agencies, except where such action is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies, the Secretary of the Interior may require—

(1) the enactment of State or local laws providing for the control and extinguishment of outcrop and underground fires in coal formations on State or privately owned land and

the cooperation of State or local authorities in the work; and

(2) agreements or covenants as to the performance and maintenance of the work required to control or extinguish such fires.

(b) Contributions

The Secretary of the Interior shall require in connection with any project for the control or extinguishment of fires in any inactive coal mine on any lands not owned or controlled by the United States or any of its agencies, except where such project is necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies, (1) that the State or person owning or controlling such lands contribute on a matching basis 50 per centum of the cost of planning and executing such project, or (2), if such State or person furnishes evidence satisfactory to the Secretary of the Interior of an inability to make the matching contribution herein provided for, that such State or person pay to the Government, within such period of time as the Secretary of the Interior shall determine, an amount equal to 50 per centum of the cost of planning and executing such project. At least 75 per centum of the funds expended in any fiscal year, from any appropriation available to carry out the purposes of this chapter, in connection with projects for the control or extinguishment of fires in inactive coal mines where such action is not necessary for the protection of lands or other property owned or controlled by the United States or any of its agencies, shall be expended in conformity with clause (1) of this subsection.

(Aug. 31, 1954, ch. 1156, § 5, 68 Stat. 1010.)

§ 556. Administration

In carrying out the provisions of section 553 of this title the Secretary of the Interior is authorized—

(a) Employment of personnel

to secure, by contract or otherwise, and without regard to the civil service laws and chapter 51 and subchapter III of chapter 53 of title 5, for work of a temporary, intermittent, or emergency character, such personal services as may be deemed necessary for the efficient and economical performance of the work;

(b) Employment of equipment

to hire, with or without personal services, work animals and animal-drawn and motor-propelled vehicles and equipment, at rates to be approved by the Secretary of the Interior and without regard to the provisions of section 5 of title 41;

(c) Contractual authority

to procure all or any part of the surveys, investigations, and control or extinguishment work by contracts with engineers, contractors, or firms or corporations thereof;

(d) Acquisition of lands, etc.

to acquire lands or rights and interests therein, including improvements, by purchase, lease, gift, exchange, condemnation, or otherwise, whenever necessary for the purposes of this chapter;

(e) Property restoration

to repair, restore, or replace private property damaged or destroyed as a result of, or incident to, operations under this chapter; and

(f) Contributions; cooperation with other agencies; disposition of monies

to receive and accept money and property, real or personal, or interests therein, as a gift, bequest, or contribution, for use in any of the activities authorized under this chapter; and to conduct any of the activities authorized under this chapter in cooperation with any person or agency, Federal, State, or private. Any money so received shall be deposited in the Treasury of the United States in an available trust fund to be disbursed by the Secretary of the Treasury upon certification by the Secretary of the Interior in accordance with the terms of the grant, and shall remain available until expended for the purposes for which received and accepted.

(Aug. 31, 1954, ch. 1156, § 6, 68 Stat. 1010.)

REFERENCES IN TEXT

The civil service laws, referred to in par. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 557. Rules and regulations

The Secretary of the Interior may issue rules and regulations to effectuate the purposes of this chapter.

(Aug. 31, 1954, ch. 1156, § 7, 68 Stat. 1011.)

§ 558. Authorization of appropriations

There are hereby authorized to be appropriated such sums, not to exceed $500,000 annually, as may be necessary to carry out the provisions and purposes of this chapter.

(Aug. 31, 1954, ch. 1156, § 8, 68 Stat. 1011.)

CHAPTER 14—ANTHRACITE MINE DRAINAGE AND FLOOD CONTROL

Sec.
571. Declaration of policy.
572. United States contributions to Pennsylvania—Authority; conditions; limitations.
(a) Contributions to be matched by Commonwealth.
(b) Amount of contributions authorized.
(c) Limitation on use of contribution.
(d) Commonwealth responsible for installation and operation of projects.
(e) Location and operation of projects.
(f) Economic justification for abandoned coal mine projects.
573. Statement by Commonwealth for Secretary.
574. Hearings; withholding payments.
575. Annual reports to Congress by Secretary.
576. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 App. section 205.

§ 571. Declaration of policy

It is hereby recognized that the presence of large volumes of water in anthracite coal formations involves serious wastage of the fuel resources of the Nation, and constitutes a menace to health and safety and national security. It is therefore declared to be the policy of the Congress to provide for the control and drainage of water in the anthracite coal formations and thereby conserve natural resources, promote national security, prevent injuries and loss of life, and preserve public and private property, and to seal abandoned coal mines and to fill voids in abandoned coal mines, in those instances where such work is in the interest of the public health or safety.

(July 15, 1955, ch. 369, § 1, 69 Stat. 352; Oct. 15, 1962, Pub. L. 87-818, § 1(1), 76 Stat. 934.)

AMENDMENTS

1962—Pub. L. 87-818 declared it to be the policy of the Congress "to seal abandoned coal mines and to fill voids in abandoned coal mines, in those instances where such work is in the interest of the public health or safety".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 572 of this title.

§ 572. United States contributions to Pennsylvania—Authority; conditions; limitations

The Secretary of the Interior is authorized, in order to carry out the purposes mentioned in section 571 of this title, to make financial contributions on the basis of programs or projects approved by the Secretary to the Commonwealth of Pennsylvania (hereinafter designated as the "Commonwealth") to seal abandoned coal mines and to fill voids in abandoned coal mines, in those instances where such work is in the interest of the public health or safety, and for control and drainage of water which, if not so controlled or drained, will cause the flooding of anthracite coal formations, said contributions to be applied to the cost of drainage works, pumping plants, and related facilities but subject, however, to the following conditions and limitations:

(a) Contributions to be matched by Commonwealth

The amounts authorized to be contributed by the Secretary of the Interior to the Commonwealth shall be equally matched by the Commonwealth;

(b) Amount of contributions authorized

The total amount of contributions by the Secretary of the Interior under the authority of this chapter shall not exceed $8,500,000, of which $1,500,000 of the unexpended balance remaining as of July 31, 1962, shall be reserved for the control and drainage of water;

(c) Limitation on use of contribution

The amounts contributed by the Secretary of the Interior under the authority of this chapter and the equally matched amounts contributed by the Commonwealth shall not be used for operating and maintaining projects constructed pursuant to this chapter or for the purchase of culm, rock, or spoil banks;

(d) Commonwealth responsible for installation and operation of projects

The Commonwealth shall have full responsibility for installing, operating, and maintaining projects constructed pursuant to this chapter, and shall give evidence, satisfactory to the Secretary of the Interior, that it will enforce effective installation, operation, and maintenance safeguards;

(e) Location and operation of projects

Projects constructed pursuant to this chapter shall be so located, operated, and maintained as to provide the maximum conservation of anthracite coal resources or, in those instances where such work would be in the interest of the public health or safety, to seal abandoned coal mines and to fill voids in abandoned coal mines, and, where possible, to avoid creating inequities among those mines which may be affected by the waters to be controlled thereby; and

(f) Economic justification for abandoned coal mine projects

Projects for the sealing of abandoned coal mines or the filling of voids in abandoned coal mines shall be determined by the Secretary of the Interior to be economically justified. The Secretary shall not find any project to be economically justified unless the potential benefits are estimated by him to exceed the estimated cost of the project.

(July 15, 1955, ch. 369, § 2, 69 Stat. 353; Oct. 15, 1962, Pub. L. 87-818, § 1(2)-(7), 76 Stat. 934.)

AMENDMENTS

1962—Pub. L. 87-818, § 1(2), authorized the Secretary of the Interior, in the preamble clause, to seal abandoned coal mines and to fill voids in abandoned coal mines, in those instances where such work is in the interest of the public health or safety.

Subsec. (b). Pub. L. 87-818, § 1(3), reserved $1,500,000 of the unexpended balance remaining as of July 31, 1962, for the control and drainage of water.

Subsec. (c). Pub. L. 87-818, § 1(4), prohibited the use of contributions for the purchase of culm, rock, or spoil banks.

Subsec. (d). Pub. L. 87-818, § 1(5), struck out "and" after the semicolon.

Subsec. (e). Pub. L. 87-818, § 1(6), prescribed that projects be so located, operated, and maintained as to seal abandoned coal mines and to fill voids in abandoned coal mines in those instances where such work would be in the interest of the public health or safety.

Subsec. (f). Pub. L. 87-818, § 1(7), added subsec. (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 App. section 205.

§ 573. Statement by Commonwealth for Secretary

The Commonwealth shall furnish to the Secretary of the Interior a statement with respect to the project showing work done, the status of the project, expenditures and amounts obligated, at such times and in such detail as the Secretary of the Interior shall require for the purposes of this chapter.

(July 15, 1955, ch. 369, § 3, 69 Stat. 353.)

§ 574. Hearings; withholding payments

Whenever the Secretary of the Interior, after reasonable notice and opportunity for hearing, finds that there is a failure to expend funds in accordance with the terms and conditions governing the Federal contribution for such approved projects, he shall notify the Commonwealth that further payments will not be made to the Commonwealth from appropriations under this chapter until he is satisfied that there will no longer be any such failure. Until he is so satisfied the Secretary of the Interior shall withhold the payment of any financial contributions to the Commonwealth.

(July 15, 1955, ch. 369, § 4, 69 Stat. 353.)

§ 575. Annual reports to Congress by Secretary

The Secretary of the Interior shall render to Congress on or before the first day of February of each year for four consecutive years, commencing on or before February 1, 1957, a report of the progress and accomplishments of the program provided for by this chapter. The Secretary of the Interior shall, on or before the first day of February of each year after the institution of the program for the sealing of abandoned coal mines or the filling of voids in abandoned coal mines, submit a report to Congress of the actions taken under this chapter.

(July 15, 1955, ch. 369, § 5, 69 Stat. 353; Oct. 15, 1962, Pub. L. 87-818, § 1(8), 76 Stat. 935.)

AMENDMENTS

1962—Pub.L. 87-818 provided for submission of reports of action taken respecting the sealing of and the filling of voids in abandoned coal mines.

§ 576. Authorization of appropriations

There is hereby authorized to be appropriated such amounts as may be necessary to carry out the provisions of this chapter.

(July 15, 1955, ch. 369, § 6, 69 Stat. 353.)

CHAPTER 15—SURFACE RESOURCES

SUBCHAPTER I—DISPOSAL OF MATERIALS ON PUBLIC LANDS

Sec.
601. Rules and regulations governing disposal of materials; payment; removal without charge; lands excluded.
602. Bidding; advertising and other notice; conditions for negotiation of contract; report to Congress.
603. Disposition of moneys from disposal of materials.
604. Disposal of sand, peat moss, etc., in Alaska; contracts.

SUBCHAPTER II—MINING LOCATIONS

611. Common varieties of sand, stone, gravel, pumice, pumicite, or cinders, and petrified wood.
612. Unpatented mining claims.
(a) Prospecting, mining or processing operations.
(b) Reservations in the United States to use of the surface and surface resources.
(c) Severance or removal of timber.
613. Procedure for determining title uncertainties.
(a) Notice to mining claimants; request; publication; service.
(b) Failure to file verified statement.
(c) Hearings.
(d) Request for copy of notice.
(e) Failure to deliver or mail copy of notice.
614. Waiver of rights.
615. Limitation of existing rights.

SUBCHAPTER I—DISPOSAL OF MATERIALS ON PUBLIC LANDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 707 of this title; title 42 section 6502.

§ 601. Rules and regulations governing disposal of materials; payment; removal without charge; lands excluded

The Secretary, under such rules and regulations as he may prescribe, may dispose of mineral materials (including but not limited to common varieties of the following: sand, stone, gravel, pumice, pumicite, cinders, and clay) and vegetative materials (including but not limited to yucca, manzanita, mesquite, cactus, and timber or other forest products) on public lands of the United States, including, for the purposes of this subchapter, land described in subchapter V of chapter 28 of title 43, if the disposal of such mineral or vegetative materials (1) is not otherwise expressly authorized by law, including, but not limited to, subchapter I of chapter 8A of title 43, and the United States mining laws, and (2) is not expressly prohibited by laws of the United States, and (3) would not be detrimental to the public interest. Such materials may be disposed of only in accordance with the provisions of this subchapter and upon the payment of adequate compensation therefor, to be determined by the Secretary: *Provided, however,* That, to the extent not otherwise authorized by law, the Secretary is authorized in his discretion to permit any Federal, State, or Territorial agency, unit or subdivision, including municipalities, or any association or corporation not organized for profit, to take and remove, without charge, materials and resources subject to this subchapter, for use other than for commercial or industrial purposes or resale. Where the lands have been withdrawn in aid of a function of a Federal department or agency other than the department headed by the Secretary or of a State, Territory, county, municipality, water district or other local governmental subdivision or agency, the Secretary may make disposals under this subchapter only with the consent of such other Federal department or agency or of such State, Territory, or local governmental unit. Nothing in this subchapter shall be construed to apply to lands in any national park, or national monument or to any Indian lands, or lands set aside or held for the use or benefit of Indians, including lands over which jurisdiction has been transferred to the Department of the Interior by Executive order for the use of Indians. As used in this subchapter, the word "Secretary" means the Secretary of the Interior except that it means the Secretary of Agriculture where the lands involved are administered by him for national forest purposes or for the purposes of title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.] or where withdrawn for the purpose of any other function of the Department of Agriculture.

(July 31, 1947, ch. 406, § 1, 61 Stat. 681; July 23, 1955, ch. 375, § 1, 69 Stat. 367.)

REFERENCES IN TEXT

Subchapter V (§ 1181a et seq.) of chapter 28 of title 43, referred to in text, was in the original a reference to the Acts of Aug. 28, 1937 (50 Stat. 874), and June 24, 1954 (68 Stat. 270). For complete classification of these Acts to the Code, see Tables volume.

Subchapter I (§ 315 et seq.) of chapter 8A of title 43, referred to in text, was in the original a reference to the Act of June 28, 1934 (48 Stat. 1269), as amended, popularly known as the Taylor Grazing Act. For complete classification of this Act to the Code, see Short Title note set out under section 315 of Title 43 and tables volume.

The United States mining laws, referred to in text, are classified generally to this title.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, as amended. Title III of such Act is classified generally to subchapter III (§ 1010 et seq.) of chapter 33 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables volume.

AMENDMENTS

1955—Act July 23, 1955, required disposal under this subchapter of common varieties of sand, stone, gravel, pumice, pumicite, and cinders, and gave the Secretary of Agriculture the same authority as to lands under his jurisdiction as the Secretary of Interior possesses as to lands under his jurisdiction in the disposal of mining and vegetative materials.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 611, 612, 615 of this title.

§ 602. Bidding; advertising and other notice; conditions for negotiation of contract; report to Congress

(a) The Secretary shall dispose of materials under this subchapter to the highest responsible qualified bidder after formal advertising and such other public notice as he deems appropriate: *Provided, however,* That the Secretary may authorize negotiation of a contract for the disposal of materials if—

(1) the contract is for the sale of less than two hundred fifty thousand board-feet of timber; or, if

(2) the contract is for the disposal of materials to be used in connection with a public works improvement program on behalf of a Federal, State or local governmental agency and the public exigency will not permit the delay incident to advertising; or, if

(3) the contract is for the disposal of property for which it is impracticable to obtain competition.

(b) A report shall be made to Congress on April 1 and October 1 of each year of the contracts made under clauses (2) and (3) of subsection (a) of this section during the period since the date of the last report. The report shall—

(1) name each purchaser;

(2) furnish the appraised value of the material involved;

(3) state the amount of each contract;

(4) describe the circumstances leading to the determination that the contract should be entered into by negotiation instead of competitive bidding after formal advertising.

(July 31, 1947, ch. 406, § 2, 61 Stat. 681; Sept. 25, 1962, Pub. L. 87-689, § 1, 76 Stat. 587; Apr. 21, 1976, Pub. L. 94-273, § 20, 90 Stat. 379.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-273 substituted "April" for "January" and "October" for "July".

1962—Pub. L. 87-689 designated existing provisions as subsec. (a), substituted therein provisions requiring the Secretary to dispose of materials after formal advertising and such other public notice as he deems appropriate, and authorizing negotiation of a contract for the sale of less than 250,000 board-feet of timber, or for materials to be used in connection with public works improvement program for a Federal, State, or local governmental agency where the public exigency will not permit the delay of advertising, or for property for which it is impracticable to obtain competition, for provisions requiring publication of notice once a week for 4 consecutive weeks in a newspaper of general circulation, and competitive bidding, in cases where the value was in excess of $1,000, and permitting disposal upon such notice and in such manner as he prescribed where the value was $1,000 or less, and added subsec. (b).

§ 603. Disposition of moneys from disposal of materials

All moneys received from the disposal of materials under this subchapter shall be disposed of in the same manner as moneys received from the sale of public lands, except that moneys received from the disposal of materials by the Secretary of Agriculture shall be disposed of in the same manner as other moneys received by the Department of Agriculture from the administration of the lands from which the disposal of materials is made, and except that revenues from the lands described in subchapter V of chapter 28 of title 43, shall be disposed of in accordance with said sections and except that moneys received from the disposal of materials from school section lands in Alaska, reserved under section 1 of the Act of March 4, 1915 (38 Stat. 1214), shall be set apart as separate and permanent funds in the Territorial Treasury, as provided for income derived from said school section lands pursuant to said Act.

(July 31, 1947, ch. 406, § 3, 61 Stat. 681; Aug. 31, 1950, ch. 830, 64 Stat. 571; July 23, 1955, ch. 375, § 2, 69 Stat. 368.)

REFERENCES IN TEXT

Subchapter V (§ 1181a et seq.) of chapter 28 of title 43, referred to in text, was in the original a reference to the Acts of Aug. 28, 1937 (50 Stat. 874), and June 24, 1954 (68 Stat. 270). For complete classification of this Act to the Code, see Tables volume.

Section 1 of the act of March 4, 1915 [ch. 181] (38 Stat. 1214), referred to in the text, as amended Mar. 5, 1952, ch. 80, §§ 1-3, 66 Stat. 14; Aug. 5, 1953, ch. 323, 67 Stat. 364; Aug. 2, 1956, ch. 892, 70 Stat. 954; Aug. 27, 1958, Pub. L. 85-771, § 3, 72 Stat. 929, which made reservation of certain Alaska lands for educational purposes, covered disposition of proceeds or income derived from reserved lands, and set out the exclusion of certain lands, was classified to section 353 of Title 48, Territories and Insular Possessions, and was repealed by Pub. L. 85-508, § 6(k), July 7, 1958, 72 Stat. 434.

Said Act, referred to in the text, is a reference to act Mar. 4, 1915, ch. 181, 38 Stat. 1214, comprised of section 1, previously discussed, and section 2 providing Site for Agricultural College and School of Mines, University of Alaska and set out as a note under section 852 of Title 43, Public Lands.

AMENDMENTS

1955—Act July 23, 1955, provided for the disposal of moneys received by the Secretary of Agriculture, and for the disposal of revenues from the lands described in sections 1181a to 1181j of title 43.

1950—Act Aug. 31, 1950, provided for setting apart as separate and permanent funds in the Territorial Treasury moneys received from disposal of materials from school section lands in Alaska.

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 611, 612, 615 of this title; title 31 section 1604.

§ 604. Disposal of sand, peat moss, etc., in Alaska; contracts

Subject to the provisions of this subchapter, the Secretary may dispose of sand, stone, gravel, and vegetative materials located below highwater mark of navigable waters of the Territory of Alaska. Any contract, unexecuted in whole or in part, for the disposal under this subchapter of materials from land, title to which is transferred to a future State upon its admission to the Union, and which is situated within its boundaries, may be terminated or adopted by such State.

(July 31, 1947, ch. 406, § 4, as added Aug. 31, 1950, ch. 830, 64 Stat. 572.)

ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

SUBCHAPTER II—MINING LOCATIONS

§ 611. Common varieties of sand, stone, gravel, pumice, pumicite, or cinders, and petrified wood

No deposit of common varieties of sand, stone, gravel, pumice, pumicite, or cinders and no deposit of petrified wood shall be deemed a valuable mineral deposit within the meaning of the mining laws of the United States so as to give effective validity to any mining claim hereafter located under such mining laws: *Provided, however,* That nothing herein shall affect the validity of any mining location based upon discovery of some other mineral occurring in or in association with such a deposit. "Common varieties" as used in this subchapter and sections 601 and 603 of this title does not include deposits of such materials which are valuable because the deposit has some property giving it distinct and special value and does not include so-called "block pumice" which occurs in nature in pieces having one dimension of two inches or more. "Petrified wood" as used in this subchapter and sections 601 and 603 of this title means agatized, opalized, petrified, or silicified wood, or any material formed by the replacement of wood by silica or other matter.

(July 23, 1955, ch. 375, § 3, 69 Stat. 368; Sept. 28, 1962, Pub. L. 87-713, § 1, 76 Stat. 652.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

AMENDMENTS

1962—Pub. L. 87-713 defined "petrified wood", and provided that no deposit of petrified wood shall be deemed a valuable mineral deposit within the mining laws of the United States.

REGULATIONS FOR REMOVAL OF LIMITED QUANTITIES OF PETRIFIED WOOD

Section 2 of Pub. L. 87-713 provided that: "The Secretary of the Interior shall provide by regulation that limited quantities of petrified wood may be removed without charge from those public lands which he shall specify."

§ 612. Unpatented mining claims

(a) Prospecting, mining or processing operations

Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance of patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto.

(b) Reservations in the United States to use of the surface and surface resources

Rights under any mining claim hereafter located under the mining laws of the United States shall be subject, prior to issuance of patent therefor, to the right of the United States to manage and dispose of the vegetative surface resources thereof and to manage other surface resources thereof (except mineral deposits subject to location under the mining laws of the United States). Any such mining claim shall also be subject, prior to issuance of patent therefor, to the right of the United States, its permittees, and licensees, to use so much of the surface thereof as may be necessary for such purposes or for access to adjacent land: *Provided, however,* That any use of the surface of any such mining claim by the United States, its permittees or licensees, shall be such as not to endanger or materially interfere with prospecting, mining or processing operations or uses reasonably incident thereto: *Provided further,* That if at any time the locator requires more timber for his mining operations than is available to him from the claim after disposition of timber therefrom by the United States, subsequent to the location of the claim, he shall be entitled, free of charge, to be supplied with timber for such requirements from the nearest timber administered by the disposing agency which is ready for harvesting under the rules and regulations of that agency and which is substantially equivalent in kind and quantity to the timber estimated by the disposing agency to have been disposed of from the claim: *Provided further,* That nothing in this subchapter and sections 601 and 603 of this title shall be construed as affecting or intended to affect or in any way interfere with or modify the laws of the States which lie wholly or in part westward of the ninety-eighth meridian relating to the ownership, control, appropriation, use, and distribution of ground or surface waters within any unpatented mining claim.

(c) Severance or removal of timber

Except to the extent required for the mining claimant's prospecting, mining or processing operations and uses reasonably incident thereto, or for the construction of buildings or structures in connection therewith, or to provide clearance for such operations or uses, or to the extent authorized by the United States, no claimant of any mining claim hereafter located under the mining laws of the United States shall, prior to issuance of patent therefor, sever, remove, or use any vegetative or other surface resources thereof which are subject to management or disposition by the United States under subsection (b) of this section. Any severance or removal of timber which is permitted under the exceptions of the preceding sentence, other than severance or removal to provide clearance, shall be in accordance with sound principles of forest management.

(July 23, 1955, ch. 375, § 4, 69 Stat. 368.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613, 614 of this title.

§ 613. Procedure for determining title uncertainties

(a) Notice to mining claimants; request; publication; service

The head of a Federal department or agency which has the responsibility for administering surface resources of any lands belonging to the United States may file as to such lands in the office of the Secretary of the Interior, or in such office as the Secretary of the Interior may designate, a request for publication of notice to mining claimants, for determination of surface rights, which request shall contain a description of the lands covered thereby, showing the section or sections of the public land surveys which embrace the lands covered by such request, or if such lands are unsurveyed, either the section or sections which would probably embrace such lands when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument.

The filing of such request for publication shall be accompanied by an affidavit or affidavits of a person or persons over twenty-one years of age setting forth that the affiant or affiants have examined the lands involved in a reasonable effort to ascertain whether any person or persons were in actual possession of or engaged in the working of such lands or any part thereof, and, if no person or persons were found to be in actual possession of or engaged in the working of said lands or any part thereof on the date of such examination, setting forth such fact, or, if any person or persons were so found to be in actual possession or engaged in such working on the date of such examination, setting forth the name and address of each such person, unless affiant shall have been unable through reasonable inquiry to obtain information as to the name and address of any such person, in which event the affidavit shall set forth fully the nature and results of such inquiry.

The filing of such request for publication shall also be accompanied by the certificate of a title or abstract company, or of a title abstractor, or of an attorney, based upon such company's abstractor's, or attorney's examination of those instruments which are shown by the tract indexes in the county office of record as affecting the lands described in said request, setting forth the name of any person disclosed by said instruments to have an interest in said lands under any unpatented mining claim heretofore located, together with the address of such person if such address is disclosed by such instruments of record. "Tract indexes" as used herein shall mean those indexes, if any, as to surveyed lands identifying instruments as affecting a particular legal subdivision of the public land surveys, and as to unsurveyed lands identifying instruments as affecting a particular probable legal subdivision according to a projected extension of the public land surveys.

Thereupon the Secretary of the Interior, at the expense of the requesting department or agency, shall cause notice to mining claimants to be published in a newspaper having general circulation in the county in which the lands involved are situate.

Such notice shall describe the lands covered by such request, as provided heretofore, and shall notify whomever it may concern that if any person claiming or asserting under, or by virtue of, any unpatented mining claim heretofore located, rights as to such lands or any part thereof, shall fail to file in the office where such request for publication was filed (which office shall be specified in such notice) and within one hundred and fifty days from the date of the first publication of such notice (which date shall be specified in such notice), a verified statement which shall set forth, as to such unpatented mining claim—

(1) the date of location;

(2) the book and page of recordation of the notice or certificate of location;

(3) the section or sections of the public land surveys which embrace such mining claims; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by courses and distances to an approved United States mineral monument;

(4) whether such claimant is a locator or purchaser under such location; and

(5) the name and address of such claimant and names and addresses so far as known to the claimant of any other person or persons claiming any interest or interests in or under such unpatented mining claim;

such failure shall be conclusively deemed (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 612 of this title as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 612 of

this title as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 612 of this title as to hereafter located unpatented mining claims.

If such notice is published in a daily paper, it shall be published in the Wednesday issue for nine consecutive weeks, or, if in a weekly paper, in nine consecutive issues, or if in a semiweekly or triweekly paper, in the issue of the same day of each week for nine consecutive weeks.

Within fifteen days after the date of first publication of such notice, the department or agency requesting such publication (1) shall cause a copy of such notice to be personally delivered to or to be mailed by registered mail or by certified mail addressed to each person in possession or engaged in the working of the land whose name and address is shown by an affidavit filed as aforesaid, and to each person who may have filed, as to any lands described in said notice, a request for notices, as provided in subsection (d) of this section, and shall cause a copy of such notice to be mailed by registered mail or by certified mail to each person whose name and address is set forth in the title or abstract company's or title abstractor's or attorney's certificate filed as aforesaid, as having an interest in the lands described in said notice under any unpatented mining claim heretofore located, such notice to be directed to such person's address as set forth in such certificate; and (2) shall file in the office where said request for publication was filed an affidavit showing that copies have been so delivered or mailed.

(b) Failure to file verified statement

If any claimant under any unpatented mining claim heretofore located which embraces any of the lands described in any notice published in accordance with the provisions of subsection (a) of this section, shall fail to file a verified statement, as provided in such subsection (a), within one hundred and fifty days from the date of the first publication of such notice, such failure shall be conclusively deemed, except as otherwise provided in subsection (e) of this section, (i) to constitute a waiver and relinquishment by such mining claimant of any right, title, or interest under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 612 of this title as to hereafter located unpatented mining claims, and (ii) to constitute a consent by such mining claimant that such mining claim, prior to issuance of patent therefor, shall be subject to the limitations and restrictions specified in section 612 of this title as to hereafter located unpatented mining claims, and (iii) to preclude thereafter, prior to issuance of patent, any assertion by such mining claimant of any right or title to or interest in or under such mining claim contrary to or in conflict with the limitations or restrictions specified in section 612 of this title as to hereafter located unpatented mining claims.

(c) Hearings

If any verified statement shall be filed by a mining claimant as provided in subsection (a) of this section, then the Secretary of Interior shall fix a time and place for a hearing to determine the validity and effectiveness of any right or title to, or interest in or under such mining claim, which the mining claimant may assert contrary to or in conflict with the limitations and restrictions specified in section 612 of this title as to hereafter located unpatented mining claims, which place of hearing shall be in the county where the lands in question or parts thereof are located, unless the mining claimant agrees otherwise. Where verified statements are filed asserting rights to an aggregate of more than twenty mining claims, any single hearing shall be limited to a maximum of twenty mining claims unless the parties affected shall otherwise stipulate and as many separate hearing[1] shall be set as shall be necessary to comply with this provision. The procedures with respect to notice of such a hearing and the conduct thereof, and in respect to appeals shall follow the then established general procedures and rules of practice of the Department of the Interior in respect to contests or protests affecting public lands of the United States. If, pursuant to such a hearing the final decision rendered in the matter shall affirm the validity and effectiveness of any mining claimant's so asserted right or interest under the mining claim, then no subsequent proceedings under this section shall have any force or effect upon the so-affirmed right or interest of such mining claimant under such mining claim. If at any time prior to a hearing the department or agency requesting publication of notice and any person filing a verified statement pursuant to such notice shall so stipulate, then to the extent so stipulated, but only to such extent, no hearing shall be held with the respect to rights asserted under that verified statement, and to the extent defined by the stipulation the rights asserted under that verified statement shall be deemed to be unaffected by that particular published notice.

(d) Request for copy of notice

Any person claiming any right under or by virtue of any unpatented mining claim heretofore located and desiring to receive a copy of any notice to mining claimants which may be published as provided in subsection (a) of this section, and which may affect lands embraced in such mining claim, may cause to be filed for record in the county office of record where the notice or certificate of location of such mining claim shall have been recorded, a duly acknowledged request for a copy of any such notice. Such request for copies shall set forth the name and address of the person requesting copies and shall also set forth, as to each heretofore located unpatented mining claim under which such person asserts rights—

(1) the date of location;

(2) the book and page of the recordation of the notice or certificate of location; and

(3) the section or sections of the public land surveys which embrace such mining claim; or if such lands are unsurveyed, either the section or sections which would probably embrace such mining claim when the public land surveys are extended to such lands or a tie by

[1] So in original. Probably should be "hearings".

courses and distances to an approved United States mineral monument.

Other than in respect to the requirements of subsection (a) of this section as to personal delivery or mailing of copies of notices and in respect to the provisions of subsection (e) of this section, no such request for copies of published notices and no statement or allegation in such request and no recordation thereof shall affect title to any mining claim or to any land or be deemed to constitute constructive notice to any person that the person requesting copies has, or claims, any right, title, or interest in or under any mining claim referred to in such request.

(e) Failure to deliver or mail copy of notice

If any department or agency requesting publication shall fail to comply with the requirements of subsection (a) of this section as to the personal delivery or mailing of a copy of notice to any person, the publication of such notice shall be deemed wholly ineffectual as to that person or as to the rights asserted by that person and the failure of that person to file a verified statement, as provided in such notice, shall in no manner affect, diminish, prejudice or bar any rights of that person.

(July 23, 1955, ch. 375, § 5, 69 Stat. 369; June 11, 1960, Pub. L. 86-507, § 1(26), 74 Stat. 201.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" following "registered mail" in two instances in the last paragraph.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 614. Waiver of rights

The owner or owners of any unpatented mining claim heretofore located may waive and relinquish all rights thereunder which are contrary to or in conflict with the limitations or restrictions specified in section 612 of this title as to hereafter located unpatented mining claims. The execution and acknowledgment of such a waiver and relinquishment by such owner or owners and the recordation thereof in the office where the notice or certificate of location of such mining claim is of record shall render such mining claim thereafter and prior to issuance of patent subject to the limitations and restrictions in section 612 of this title in all respects as if said mining claim had been located after July 23, 1955, but no such waiver or relinquishment shall be deemed in any manner to constitute any concession as to the date of priority of rights under said mining claim or as to the validity thereof.

(July 23, 1955, ch. 375, § 6, 69 Stat. 372.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 615. Limitation of existing rights

Nothing in this subchapter and sections 601 and 603 of this title shall be construed in any manner to limit or restrict or to authorize the limitation or restriction of any existing rights of any claimant under any valid mining claim heretofore located, except as such rights may be limited or restricted as a result of a proceeding pursuant to section 613 of this title, or as a result of a waiver and relinquishment pursuant to section 614 of this title; and nothing in this subchapter and sections 601 and 603 of this title shall be construed in any manner to authorized inclusion in any patent hereafter issued under the mining laws of the United States for any mining claim heretofore or hereafter located, of any reservation, limitation, or restriction not otherwise authorized by law, or to limit or repeal any existing authority to include any reservation, limitation, or restriction in any such patent, or to limit or restrict any use of the lands covered by any patented or unpatented mining claim by the United States, its lessees, permittees, and licensees which is otherwise authorized by law.

(July 23, 1955, ch. 375, § 7, 69 Stat. 372.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

CHAPTER 16—MINERAL DEVELOPMENT OF LANDS WITHDRAWN FOR POWER DEVELOPMENT

Sec.
621. Entry to lands reserved for power development.
(a) Conditions of entry.
(b) Placer claims; notice; hearing; order; rules and regulations.
(c) Validity of withdrawals unaffected.
622. Liability for damage, destruction, or loss of claim.
623. Recording and reporting of unpatented claims; time.
624. Protection of existing valid claims.
625. Prohibition of unspecified use.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 16 section 1907.

§ 621. Entry to lands reserved for power development

(a) Conditions of entry

All public lands belonging to the United States heretofore, now or hereafter withdrawn or reserved for power development or power sites shall be open to entry for location and patent of mining claims and for mining, development, beneficiation, removal, and utilization of the mineral resources of such lands under applicable Federal statutes: *Provided*, That all power rights to such lands shall be retained by the United States: *Provided further*, That locations made under this chapter within the revested Oregon and California Railroad and reconveyed Coos Bay Wagon grant lands shall also be subject to the provisions of the Act of April 8, 1948, Public Law 477 (Eightieth Congress, second session): *And provided further*, That nothing contained herein shall be construed to open for the purposes described in this section any lands (1) which are included in any project operating or being constructed under a license or permit issued under the Federal Power Act [16 U.S.C. 791a et seq.] or other Act of Congress, or (2) which are under examination and survey by a prospective licensee of the Federal Power Commission, if such prospective licensee holds an uncanceled preliminary

permit issued under the Federal Power Act authorizing him to conduct such examination and survey with respect to such lands and such permit has not been renewed in the case of such prospective licensee more than once.

(b) Placer claims; notice; hearing; order; rules and regulations

The locator of a placer claim under this chapter, however, shall conduct no mining operations for a period of sixty days after the filing of a notice of location pursuant to section 623 of this title. If the Secretary of the Interior, within sixty days from the filing of the notice of location, notifies the locator by registered mail or certified mail of the Secretary's intention to hold a public hearing to determine whether placer mining operations would substantially interfere with other uses of the land included within the placer claim, mining operations on that claim shall be further suspended until the Secretary has held the hearing and has issued an appropriate order. The order issued by the Secretary of the Interior shall provide for one of the following: (1) a complete prohibition of placer mining; (2) a permission to engage in placer mining upon the condition that the locator shall, following placer operations, restore the surface of the claim to the condition in which it was immediately prior to those operations; or (3) a general permission to engage in placer mining. No order by the Secretary with respect to such operations shall be valid unless a certified copy is filed in the same State or county office in which the locator's notice of location has been filed in compliance with the United States mining laws.

The Secretary shall establish such rules and regulations as he deems desirable concerning bonds and deposits with respect to the restoration of lands to their condition prior to placer mining operations. Moneys received from any bond or deposit shall be used for the restoration of the surface of the claim involved, and any money received in excess of the amount needed for the restoration of the surface of that claim shall be refunded.

(c) Validity of withdrawals unaffected

Nothing in this chapter shall affect the validity of withdrawals or reservations for purposes other than power development.

(Aug. 11, 1955, ch. 797, § 2, 69 Stat. 682; June 11, 1960, Pub. L. 86-507, § 1(27), 74 Stat. 202.)

REFERENCES IN TEXT

Act of Apr. 8, 1948, referred to in subsec. (a), is act Apr. 8, 1948, ch. 179, 62 Stat. 162, which is not classified to the code.

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables volume.

AMENDMENTS

1960—Subsec. (b). Pub. L. 86-507 inserted "or certified mail" following "registered mail".

SHORT TITLE

Section 1 of act Aug. 11, 1955 provided: "That this Act [enacting this chapter] may be cited as the 'Mining Claims Rights Restoration Act of 1955'."

CROSS REFERENCES

Oregon and California Railroad and Coos Bay Wagon Road grant lands, see section 1181a et seq. of Title 43, Public Lands.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 623, 625 of this title.

§ 622. Liability for damage, destruction, or loss of claim

Prospecting and exploration for and the development and utilization of mineral resources authorized in this chapter shall be entered into or continued at the financial risk of the individual party or parties undertaking such work: *Provided*, That the United States, its permittees and licensees shall not be responsible or held liable or incur any liability for the damage, destruction, or loss of any mining claim, mill site, facility installed or erected, income, or other property or investments resulting from the actual use of such lands or portions thereof for power development at any time where such power development is made by or under the authority of the United States, except where such damage, destruction, or loss results from the negligence of the United States, its permittees and licensees.

(Aug. 11, 1955, ch. 797, § 3, 69 Stat. 682.)

§ 623. Recording and reporting of unpatented claims; time

The owner of any unpatented mining claim located on land described in section 621 of this title shall file for record in the United States district land office of the land district in which the claim is situated (1) within one year after August 11, 1955, as to any or all locations heretofore made, or within sixty days of location as to locations hereafter made, a copy of the notice of location of the claim; (2) within sixty days after the expiration of any annual assessment year, a statement as to the assessment work done or improvements made during the previous assessment year.

(Aug. 11, 1955, ch. 797, § 4, 69 Stat. 683.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 621 of this title.

§ 624. Protection of existing valid claims

Nothing in this chapter contained shall be construed to limit or restrict the rights of the owner or owners of any valid mining claim located prior to the date of withdrawal or reservation: *Provided*, That nothing in this chapter shall be construed to limit or restrict the rights of the owner or owners of any mining claim who are diligently working to make a discovery of valuable minerals at the time any future withdrawal or reservation for power development is made.

(Aug. 11, 1955, ch. 797, § 5, 69 Stat. 683.)

§ 625. Prohibition of unspecified use

Notwithstanding any other provisions of this chapter, all mining claims and mill sites or mineral rights located under the terms of this chapter or otherwise contained on the public

lands as described in section 621 of this title shall be used only for the purposes specified in section 621 of this title and no facility or activity shall be erected or conducted thereon for other purposes.

(Aug. 11, 1955, ch. 797, § 6, 69 Stat. 683.)

CHAPTER 17—EXPLORATION PROGRAM FOR DISCOVERY OF MINERALS

Sec.
641. Establishment and maintenance of program for exploration; financial assistance.
642. Exploration contracts.
(a) Terms and conditions; interest rates.
(b) Deposit of royalty payments.
(c) Certification of exploration projects; payment of royalties; time limitation on payment; royalty agreements.
(d) Production.
(e) Rules and regulations; adjustment of contracts.
(f) Availability of funds.
643. Definition of exploration.
644. Advice and assistance by Governmental departments and agencies; expenditure of funds.
645. Repealed.
646. Authorization of appropriations.

§ 641. Establishment and maintenance of program for exploration; financial assistance

The Secretary of the Interior is hereby authorized and directed, in order to provide for discovery of additional domestic mineral reserves, to establish and maintain a program for exploration by private industry within the United States, its Territories and possessions for such minerals, excluding organic fuels, as he shall from time to time designate, and to provide Federal financial assistance on a participating basis for that purpose.

(Pub. L. 85-701, § 1, Aug. 21, 1958, 72 Stat. 700.)

CONGRESSIONAL DECLARATION OF POLICY

The recital clause of Pub. L. 85-701, which preceded section 1, provided: "That it is declared to be the policy of the Congress to stimulate exploration for minerals within the United States, its Territories and possessions."

§ 642. Exploration contracts

(a) Terms and conditions; interest rates

In order to carry out the purposes of this chapter, and subject to the provisions of this section, the Secretary is authorized to enter into exploration contracts with individuals, partnerships, corporations, or other legal entities which shall provide for such Federal financial participation as he deems in the national interest. Such contracts shall contain terms and conditions as the Secretary deems necessary and appropriate, including terms and conditions for the repayment of the Federal funds made available under any contract together with interest thereon, as a royalty on the value of the production from the area described in the contract. Interest shall be calculated from the date of the loan. Such interest shall be at rates which (1) are not less than the rates of interest which the Secretary of the Treasury shall determine the Department of the Interior would have to pay if it borrowed such funds from the Treasury of the United States, taking into consideration current average yields on outstanding marketable obligations of the United States with maturities comparable to the terms of the particular contracts involved and (2) plus 2 per centum per annum in lieu of recovering the cost of administering the particular contracts.

(b) Deposit of royalty payments

Royalty payments received under subsection (a) of this section shall be covered into the miscellaneous receipts of the Treasury.

(c) Certification of exploration projects; payment of royalties; time limitation on payment; royalty agreements

When in the opinion of the Secretary an analysis and evaluation of the results of the exploration project disclose that mineral production from the area covered by the contract may be possible he shall so certify within the time specified in the contract. Upon certification, payment of royalties shall be a charge against production for the full period specified in the contract or until the obligation has been discharged, but in no event shall such royalty payments continue for a period of more than twenty-five years from the date of contract. When the Secretary determines not to certify he shall promptly notify the contractor. When the Secretary deems it necessary and in the public interest, he may enter into royalty agreements to provide for royalty payments in the same manner as though the project had been certified.

(d) Production

No provision of this chapter, nor any rule or regulation which may be issued by the Secretary shall be construed to require any production from the area described in the contract.

(e) Rules and regulations; adjustment of contracts

The Secretary shall establish and promulgate such rules and regulations as may be necessary to carry out the purposes of this chapter: *Provided, however,* That he may modify and adjust the terms and conditions of any contract to reduce the amount and term of any royalty payment when he shall determine that such action is necessary and in the public interest: *Provided further,* That no such single contract shall authorize Government participation in excess of $250,000.

(f) Availability of funds

No funds shall be made available under this chapter unless the applicant shall furnish evidence that funds from commercial sources are unavailable on reasonable terms.

(Pub. L. 85-701, § 2, Aug. 21, 1958, 72 Stat. 700.)

§ 643. Definition of exploration

As used in this chapter, the term "exploration" means the search for new or unexplored deposits of minerals, including related development work, within the United States, its Territories and possessions, whether conducted from the surface or underground, using recognized and sound procedures including standard geophysical and geochemical methods for obtaining mineralogical and geological information.

(Pub. L. 85-701, § 3, Aug. 21, 1958, 72 Stat. 701.)

§ 644. Advice and assistance by Governmental departments and agencies; expenditure of funds

Departments and agencies of the Government are authorized to advise and assist the Secretary of the Interior, upon his request, in carrying out the provisions of this chapter and may expend their funds for such purposes, with or without reimbursement, in accordance with such agreements as may be necessary.

(Pub. L. 85-701, § 4, Aug. 21, 1958, 72 Stat. 701.)

§ 645. Repealed. Pub. L. 93-608, § 1(13), Jan. 2, 1975, 88 Stat. 1969

Section, Pub. L. 85-701, § 5, Aug. 21, 1958, 72 Stat. 701; Pub. L. 89-348, § 2(5), Nov. 8, 1965, 79 Stat. 1312, required the Secretary of the Interior to report to the Congress on the operations of programs authorized pursuant to this chapter.

§ 646. Authorization of appropriations

There are hereby authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 85-701, § 6, Aug. 21, 1958, 72 Stat. 701.)

CHAPTER 18—COAL RESEARCH AND DEVELOPMENT

Sec.
661. Definitions.
662. Office of Coal Research; powers and duties.
663. Advisory committees.
(a) Minutes of meetings.
(b) Availability of minutes or reports.
(c) Compensation; travel expenses.
(d) Exemption from conflict-of-interest statutes.
664. Director of Coal Research; appointment.
665. Sites for conducting research; availability of personnel and facilities.
666. Public-availability requirement; national defense; patent agreements.
667. Reports to President and Congress.
668. Authorization of appropriations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 5814.

§ 661. Definitions

As used in this chapter

(a) The term "Secretary" means the Secretary of the Interior.

(b) The term "research" means scientific, technical, and economic research and the practical application of that research.

(Pub. L. 86-599, § 1, July 7, 1960, 74 Stat. 336.)

TRANSFER OF FUNCTIONS

Functions of the Secretary of the Interior, the Department of the Interior, and officers and components of such Department, relating to or utilized by the Office of Coal Research, transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814 of Title 42, The Public Health and Welfare.

§ 662. Office of Coal Research; powers and duties

The Secretary shall establish within the Department of the Interior an Office of Coal Research, and through such Office shall—

(1) develop through research, new and more efficient methods of mining, preparing, and utilizing coal;

(2) contract for, sponsor, cosponsor, and promote the coordination of, research with recognized interested groups, including but not limited to, coal trade associations, coal research associations, educational institutions, and agencies of States and political subdivisions of States;

(3) establish technical advisory committees composed of recognized experts in various aspects of coal research to assist in the examination and evaluation of research progress and of all research proposals and contracts and to insure the avoidance of duplication of research; and

(4) cooperate to the fullest extent possible with other departments, agencies, and independent establishments of the Federal Government and with State governments, and with all other interested agencies, governmental and nongovernmental.

(Pub. L. 86-599, § 2, July 7, 1960, 74 Stat. 336.)

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 661 of this title.

TERMINATION OF AVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 663. Advisory committees

(a) Minutes of meetings

Any advisory committee appointed under the provisions of this chapter shall keep minutes of each meeting, which shall contain as a minimum (1) the name of each person attending such meeting, (2) a copy of the agenda, and (3) a record of all votes or polls taken during the meeting.

(b) Availability of minutes or reports

A copy of any such minutes or of any report made by any such committee after final action has been taken thereon by the Secretary shall be available to the public upon request and payment of the cost of furnishing such copy.

(c) Compensation; travel expenses

Members of any advisory committee appointed from private life under authority of this section shall each receive $50 per diem when engaged in the actual performance of their duties as a member of such advisory committee. Such members shall also be entitled to travel ex-

penses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5 for all persons employed intermittently as consultants or experts receiving compensation on a per diem basis.

(d) Exemption from conflict-of-interest statutes

Service by an individual as a member of such an advisory committee shall not subject him to the provisions of section 1914 of title 18, or, except with respect to a particular matter which directly involves the Office of Coal Research or in which the Office of Coal Research is directly interested, to the provisions of sections 281, 283, or 284 of title 18 or of section 190 of the Revised Statutes (5 U.S.C. 99).

(Pub. L. 86-599, § 3, July 7, 1960, 74 Stat. 336.)

REFERENCES IN TEXT

Section 190 of the Revised Statutes, referred to in subsec. (d), was repealed by Pub. L. 87-849, § 3, Oct. 23, 1962, 76 Stat. 1126, and is now covered by section 207 of Title 18, Crimes and Criminal Procedure.

Sections 281, 283, 284, and 1914 of title 18, referred to in subsec. (d), were repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 1126, "Except as they [sections 281 and 283] may apply to retired officers of the armed forces of the United States)", and were supplanted by sections 203, 205, 207, and 209, respectively, of Title 18. For further details, see Exemptions note set out under section 281 of Title 18.

CODIFICATION

"Section 5703 of title 5" was substituted for "section 73b-2 of title 5", in subsec. (c), on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

See Transfer of Functions note under section 661 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 664. Director of Coal Research; appointment

The Secretary may appoint a Director of Coal Research without regard to the provisions of the civil service laws, or chapter 51 and subchapter III of chapter 53 of title 5.

(Pub. L. 86-599, § 4 (part), July 7, 1960, 74 Stat. 336.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub.L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TRANSFER OF FUNCTIONS

See Transfer of Functions under section 661 of this title.

COMPENSATION OF DIRECTOR

The annual rate of basic compensation of the Director was established at $17,500 by section 107(a)(23) of act July 31, 1956, ch. 804, title I, as added by Pub. L. 86-599, § 4, July 7, 1960, 74 Stat. 336. Section 301 of Pub. L. 87-367, title III, Oct. 4, 1961, 75 Stat. 792, repealed section 107(a)(23) of act July 31, 1956, and section 304 of Pub. L. 87-367 directed that the position of Director shall be placed in the appropriate grade of the General Schedule of the Classification Act of 1949, as amended (now covered by chapter 51 of Title 5).

§ 665. Sites for conducting research; availability of personnel and facilities

Research authorized by this chapter may be conducted wherever suitable personnel and facilities are available.

(Pub. L. 86-599, § 5, July 7, 1960, 74 Stat. 337.)

§ 666. Public-availability requirement; national defense; patent agreements

No research shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this chapter, unless all information, uses, products, processes, patents, and other developments resulting from such research will (with such exceptions and limitations, if any, as the Secretary may find to be necessary in the interest of national defense) be available to the general public. Whenever in the estimation of the Secretary the purposes of this chapter would be furthered through the use of patented processes or equipment, the Secretary is authorized to enter into such agreements as he deems necessary for the acquisition or use of such patents on reasonable terms and conditions.

(Pub. L. 86-599, § 6, July 7, 1960, 74 Stat. 337.)

§ 667. Reports to President and Congress

The Secretary shall submit to the President and the Congress, on or before February 15 of each year, beginning with the year 1961, a comprehensive report concerning activities under the authority of this chapter, including information on all research projects conducted, sponsored, or cosponsored under the authority of this chapter during the preceding year.

(Pub. L. 86-599, § 7, July 7, 1960, 74 Stat. 337.)

§ 668. Authorization of appropriations

(a) There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to remain available until expended, not to exceed $2,000,000 to be

used to carry out the purposes of this chapter for the fiscal year beginning July 1, 1960.

(b) There are hereby authorized to be appropriated for each fiscal year beginning after June 30, 1961, such sums as may be necessary to carry out the purposes of this chapter.

(c) Sums appropriated to carry out the purposes of this chapter shall remain available until expended.

(Pub. L. 86-599, § 8, July 7, 1960, 74 Stat. 337.)

CHAPTER 19—LEAD AND ZINC STABILIZATION PROGRAM

Sec.
681. Statement of purpose.
682. Stabilization payments.
(a) Conditions; assay of metal content.
(b) Lead; market price determinative of right to payments; amount of payments.
(c) Zinc; market price determinative of right to payments; amount of payments.
(d) Dollar limitation on payments.
683. Additional limitations on payments.
(a) Tonnage limitations.
(b) Exclusion from benefits of domestic production for Government under defense production and stockpiling programs; reduction of annual and quarterly limitations by such domestic production.
(c) Quarterly limitations.
684. Regulations and reports.
685. Delegation of functions.
686. Definitions.
687. Termination date.
688. Reports to Congress.
689. Penalties; civil and criminal liability.

§ 681. Statement of purpose

The Secretary of the Interior is hereby authorized and directed to establish and maintain a program of stabilization payments to small domestic producers of lead and zinc ores and concentrates in order to stabilize the mining of lead and zinc by small domestic procedures on public, Indian, and other lands as provided in this chapter.

(Pub. L. 87-347, § 1, Oct. 3, 1961, 75 Stat. 766.)

§ 682. Stabilization payments

(a) Conditions; assay of metal content

Subject to the limitations of this chapter, the Secretary shall make stabilization payments to small domestic producers upon presentation of evidence satisfactory to him of their status as such producers and of the sale by them of newly mined ores, or concentrates produced therefrom, as provided in this chapter. Payments shall be made only with respect to the metal content as determined by assay.

(b) Lead; market price determinative of right to payments; amount of payments

Such payments shall be made to small domestic producers of lead as long as the market price for common lead at New York, New York, as determined by the Secretary, is below 14½ cents per pound, and such payments shall be 75 per centum of the difference between 14½ cents per pound and the average market price for the month in which the sale occurred as determined by the Secretary.

(c) Zinc; market price determinative of right to payments; amount of payments

Such payments shall be made to small domestic producers of zinc as long as the market price for prime western zinc at East Saint Louis, Illinois, as determined by the Secretary, is below 14½ cents per pound, and such payments shall be 55 per centum of the difference between 14½ cents per pound and the average market price for the month in which the sale occurred as determined by the Secretary.

(d) Dollar limitation on payments

The maximum amount of payments which may be made pursuant to this chapter on account of sales of newly mined ores or concentrates produced therefrom made during any calendar year shall not exceed $2,500,000.

(Pub. L. 87-347, § 2, Oct. 3, 1961, 75 Stat. 766; Pub. L. 89-238, § 1(1), Oct. 5, 1965, 79 Stat. 925.)

Amendments

1965—Subsec. (d). Pub. L. 89-238 substituted provisions setting a limit of $2,500,000 on payments made on account of sales of newly mined ores or concentrates during any calendar year, for provisions which set specified limits of $4,500,000 for 1962 and 1963, $4,000,000 for 1964, and $3,500,000 for 1965.

Effective Date of 1965 Amendment

Section 2 of Pub. L. 89-238 provided that: "The amendments of the Act of October 3, 1961, as amended, which are contained in section 1 of this Act [amending sections 682, 683, 686, 687, and 689 of this title] shall be effective on January 1, 1966."

§ 683. Additional limitations on payments

(a) Tonnage limitations

Subject to the provisions of subsections (b) and (c) of this section, no stabilization payments under this chapter shall be made to any small domestic producer on sales, or further processing in lieu of sales, in any calendar year in excess of one thousand two hundred tons of zinc and one thousand two hundred tons of lead.

(b) Exclusion from benefits of domestic production for Government under defense production and stockpiling programs; reduction of annual and quarterly limitations by such domestic production

No stabilization payments under this chapter shall be made on any domestically produced material which is sold to or eligible for sale to the United States Government, or any agency thereof, pursuant to a contract made under the provisions of the Defense Production Act of 1950, as amended [50 U.S.C., App., 2061 et seq.], or the Strategic and Critical Materials Stockpiling Act [50 U.S.C. 98 et seq.]. Any such material shall be applied to reduce the annual limitations specified in this section, and the quarterly limitations as fixed by the Secretary.

(c) Quarterly limitations

For purposes of administration the Secretary may fix quarterly limitations on the total amounts of each material on which stabilization payments are made for the purpose of achieving stabilization in the annual rates of production.

(Pub. L. 87-347, § 3, Oct. 3, 1961, 75 Stat. 767; Pub. L. 89-238, § 1(2), Oct. 5, 1965, 79 Stat. 925.)

REFERENCES IN TEXT

The Defense Production Act of 1950, referred to in subsec. (b), is act Sept. 8, 1950, ch. 932, 64 Stat. 798, as amended, which is classified to section 2061 et seq. of Title 50, App., War and National Defense. For complete classification of this Act to the Code, see section 2061 of Title 50, App., and Tables volume.

The Strategic and Critical Materials Stockpiling Act, referred to in subsec. (b), is act June 7, 1939, ch. 190, 53 Stat. 811, as amended, which is classified generally to subchapter III (§ 98 et seq.) of chapter 5 of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 98 of Title 50 and Tables volume.

AMENDMENTS

1965—Subsec. (a). Pub. L. 89-238 substituted a general prohibition against making of stabilization payments in any calendar year to any small domestic producer on sales or further processing in lieu of sales, in excess of one thousand two hundred tons of zinc and one thousand two hundred tons of lead, for provisions setting individual tonnage limitations for 1962, 1963, 1964 and 1965, limiting payments to ores and concentrates produced from an operating unit which was operated between Jan. 1, 1956 and Aug. 1, 1961, and prohibiting payments on production from properties acquired by sale, lease, permit, or otherwise, with certain qualifications, subsequent to August 1, 1961.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-238 effective on January 1, 1966, see section 2 of Pub. L. 89-238, set out as an Effective Date of 1965 Amendment note under section 682 of this title.

§ 684. Regulations and reports

The Secretary is authorized to establish and promulgate such regulations and require such reports as he deems necessary to carry out the purposes of this chapter, but such regulations shall assure equitable distribution of the benefits of the programs provided by this chapter among the small domestic producers affected.

(Pub. L. 87-347, § 4, Oct. 3, 1961, 75 Stat. 767.)

§ 685. Delegation of functions

The Secretary may delegate any of the functions authorized by this chapter to the Administrator of General Services.

(Pub. L. 87-347, § 5, Oct. 3, 1961, 75 Stat. 768.)

§ 686. Definitions

(a) For the purposes of this chapter—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "small domestic producer" means any person or firm who, during a period of not less than twelve months, has engaged in producing ores or concentrates from mines located within the United States or its possessions and in selling the material so produced in normal commercial channels and who, during any twelve-month period between January 1, 1960, and the first day of the period for which he seeks payments under this chapter, has not produced or sold ores or concentrates the recoverable content of which is more than three thousand tons of lead and zinc combined, recoverable content being computed as 95 per centum of the lead content of the ores or concentrates and 85 per centum of the zinc content of the ores or concentrates: *Provided*, That the principal product or products of such producer is either lead or zinc or a combination of lead and zinc. The term "small domestic producer" does not include any firm which is a subsidiary of, or controlled by, a large producer.

(3) The term "sale" means a bona fide transfer for value of ores and concentrates from a producer to a processing plant. In the event that a producer further processes ores or concentrates, a sale shall be deemed to have occurred when such ores or concentrates are shipped to the processing plant.

(4) The term "newly mined" means domestic material processed into concentrates or severed from the land subsequent to October 3, 1961, but shall not exclude normal inventories of crude ore. The term does not refer to material recovered from mine dumps, mill tailings, or from smelter slags and residues derived from material mined prior to October 3, 1961.

(5) The term "quarter" means the calendar periods commencing on the first day of the months of January, April, July, and October.

(6) The term "principal product or products" means that the dollar value of lead or zinc sold or the combination of lead and zinc sold must have been 50 per centum or more of the total dollar value of all minerals and metals contained in the ores and concentrates produced and sold by the small domestic producer, calculated on the basis of the product of the total metal and mineral content of the ores and concentrates sold, as determined from the settlement assays, and the quoted market prices of those metals or minerals at the time of the sale.

(b) For the purposes of this chapter, the Secretary may determine what constitutes a single operating unit producing ores and, in the event that more than one producer claims payment for sales from production of a single operating unit, the Secretary may determine the quantity of sales for each such producer to which the above limitations apply.

(c) For purposes of this chapter, sales of concentrates produced from ores sold to a mill or processing plant in accordance with regulations issued pursuant to this chapter shall not be considered as the sales of the owner of the mill, but shall be considered as the sales of the small domestic producer of the ores.

(Pub. L. 87-347, § 6, Oct. 3, 1961, 75 Stat. 768; Pub. L. 88-75, July 25, 1963, 77 Stat. 92; Pub. L. 89-238, § 1(3), Oct. 5, 1965, 79 Stat. 925.)

AMENDMENTS

1965—Subsec. (a)(2). Pub. L. 89-238 limited the definition of "small domestic producer" by requiring that such person have engaged in producing ores and concentrates from mines located within the United States or its possessions and in selling the materials so produced in normal commercial channels over a period of twelve months, substituted January 1, 1960 for January 1, 1956, and added the proviso that the term not include any firm which is a subsidiary of, or controlled by, a large producer.

1963—Subsec. (a). Pub. L. 88-75 inserted the proviso that the principal product of such producer be either

lead or zinc or a combination of both in clause (2), and added clause (6).

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-238 effective on Jan. 1, 1966, see section 2 of Pub. L. 89-238, set out as an Effective Date of 1965 Amendment note under section 682 of this title.

§ 687. Termination date

No payment shall be made under this chapter on any ores or concentrates sold, or processed in lieu of sale, after December 31, 1969; but authorized payment shall be made only if application therefor is filed not later than March 31, 1970, in accordance with regulations established by the Secretary.

(Pub. L. 87-347, § 7, Oct. 3, 1961, 75 Stat. 768; Pub. L. 89-238, § 1(4), Oct. 5, 1965, 79 Stat. 925.)

AMENDMENTS

1965—Pub. L. 89-238 substituted "December 31, 1969" and "March 31, 1970" for "December 31, 1965" and "March 31, 1966" respectively.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-238 effective on Jan. 1, 1966, see section 2 of Pub. L. 89-238, set out as an Effective Date of 1965 Amendment note under section 682 of this title.

§ 688. Reports to Congress

The Secretary shall make an annual report with respect to operations under this chapter not later than March 1 of each year to the Congress of the United States. Any such report shall contain such recommendations as the Secretary may deem appropriate.

(Pub. L. 87-347, § 8, Oct. 3, 1961, 75 Stat. 768.)

§ 689. Penalties; civil and criminal liability

(a) Whoever, for the purpose of procuring a payment to which he is not entitled under this chapter and the regulations issued pursuant thereto or for the purpose of assisting another to procure a payment to which the other is not entitled under this chapter and the regulations issued pursuant thereto, misrepresents any material fact, knowing the same to be false, fictitious, or fraudulent, shall be guilty of an offense against the United States and shall be fined not more than $5,000 or imprisoned not more than two years, or both, and shall thenceforth be entitled to no benefits under this chapter.

(b) Whoever accepts a payment under this chapter to which, or any portion of which, he is not entitled, knowing that he is not entitled thereto or whoever, having accepted a payment under this chapter to which, or any portion of which, he is not entitled, retains the same, knowing that he is not entitled thereto, shall be required, in a civil action instituted by the Attorney General, to refund treble the amount accepted or retained by him. The acceptance or retention of any payment as aforesaid shall also constitute an offense against the United States punishable by a fine of not more than $5,000 or imprisonment for not more than two years, or both, and any person who shall be convicted of such offense shall thenceforth be entitled to no benefits under this chapter.

(Pub. L. 87-347, § 9, Oct. 3, 1961, 75 Stat. 768; Pub. L. 89-238, § 1(5), Oct. 5, 1965, 79 Stat. 925.)

AMENDMENTS

1965—Subsec. (c). Pub. L. 89-238 deleted subsec. (c) which removed the eligibility of producers operating under a lease, contract, or permit obtained after Oct. 3, 1961, from another producer of lead and zinc who has placed a larger portion of his mining properties under lease, contract, or permit to other producers than he had placed at his highest production level since Jan. 1, 1956, to Oct. 3, 1961.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-238 effective on Jan. 1, 1966, see section 2 of Pub. L. 89-238, set out as an Effective Date of 1965 Amendment note under section 682 of this title.

CHAPTER 20—CONVEYANCES TO OCCUPANTS OF UNPATENTED MINING CLAIMS

Sec.
701. Authorization to convey; acreage limitations; qualified applicants; payment; "qualified officer of the United States", defined.
702. "Qualified applicant", defined.
703. Withdrawal of lands in aid of a governmental unit.
704. Purchase of substitute lands; limitations; conditions; payment; conveyance of less than a fee.
705. Purchase price of conveyed interest; installment payments.
706. Liabilities of occupants; trespass; limitations.
707. Reservation of mineral rights.
708. Assignments; succession.
709. Disposition of payments and fees.

§ 701. Authorization to convey; acreage limitations; qualified applicants; payment; "qualified officer of the United States", defined

The Secretary of the Interior may convey to any occupant of an unpatented mining claim which is determined by the Secretary to be invalid an interest, up to and including a fee simple, in and to an area within the claim of not more than (a) five acres or (b) the acreage actually occupied by him, whichever is less. The Secretary may make a like conveyance to any occupant of an unpatented mining claim who, after notice from a qualified officer of the United States that the claim is believed to be invalid, relinquishes to the United States all rights in and to such claim which he may have under the mining laws. Any conveyance authorized by this section, however, shall be made only to a qualified applicant, as that term is defined in section 702 of this title, who applies therefor within the period ending June 30, 1971, and upon payment of an amount established in accordance with section 705 of this title.

As used in this section, the term "qualified officer of the United States" means the Secretary of the Interior or an employee of the Department of the Interior so designated by him: *Provided*, That the Secretary may delegate his authority to designate qualified officers to the head of any other department or agency of the United States with respect to lands within the administrative jurisdiction of that department or agency.

(Pub. L. 87-851, § 1, Oct. 23, 1962, 76 Stat. 1127; Pub. L. 90-111, § 1, Oct. 23, 1967, 81 Stat. 311.)

REFERENCES IN TEXT

The mining laws, referred to in text, are classified generally to this title.

AMENDMENTS

1967—Pub. L. 90-111 extended from Oct. 23, 1967, to June 30, 1971, the period in which qualified individuals shall apply for conveyances authorized by this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 703, 704, 706 of this title.

§ 702. "Qualified applicant", defined

For the purposes of this chapter a qualified applicant is a residential occupant-owner, as of October 23, 1962, of valuable improvements in an unpatented mining claim which constitute for him a principal place of residence and which he and his predecessors in interest were in possession of for not less than seven years prior to July 23, 1962.

(Pub. L. 87-851, § 2, Oct. 23, 1962, 76 Stat. 1127.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 701 of this title.

§ 703. Withdrawal of lands in aid of a governmental unit

Where the lands for which application is made under section 701 of this title have been withdrawn in aid of a function of a Federal department or agency other than the Department of the Interior, or of a State, county, municipality, water district, or other local governmental subdivision or agency, the Secretary of the Interior may convey an interest therein only with the consent of the head of the governmental unit concerned and under such terms and conditions as said head may deem necessary.

(Pub. L. 87-851, § 3, Oct. 23, 1962, 76 Stat. 1127.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 704 of this title.

§ 704. Purchase of substitute lands; limitations; conditions; payment; conveyance of less than a fee

(a) If the Secretary of the Interior determines that conveyance of an interest under section 701 of this title is otherwise justified but the consent required by section 703 of this title is not given, he may, in accordance with such procedural rules and regulations as he may prescribe, grant the applicant a right to purchase, for residential use, an interest in another tract of land, five acres or less in area, from tracts made available by him for sale under this chapter (1) from the unappropriated and unreserved lands of the United States, or (2) from lands subject to classification under section 315f of title 43. Said right shall not be granted until arrangements satisfactory to the Secretary have been made for termination of the applicant's occupancy of his unpatented mining claim and for settlement of any liability for the unauthorized use thereof which may have been incurred and shall expire five years from the date on which it was granted unless sooner exercised. The amount to be paid for the interest shall be determined in accordance with section 705 of this title.

(b) Any conveyance of less than a fee made under this chapter shall include provision for removal from the tract of any improvements or other property of the applicant at the close of the period for which the conveyance is made, or if it be an interest terminating on the death of the applicant, within one year thereafter.

(Pub. L. 87-851, § 4, Oct. 23, 1962, 76 Stat. 1127.)

§ 705. Purchase price of conveyed interest; installment payments

The Secretary of the Interior, prior to any conveyance under this chapter, shall determine the fair market value of the interest to be conveyed, exclusive of the value of any improvements placed on the lands involved by the applicant or his predecessors in interest. Said value shall be determined as of the date of appraisal. In establishing the purchase price to be paid by the applicant for the interest, the Secretary shall take into consideration any equities of the applicant and his predecessors in interest, including conditions of prior use and occupancy. In any event the purchase price for any interest conveyed shall not exceed its fair market value nor be less than $5 per acre. The Secretary may, in his discretion, allow payment to be made in installments.

(Pub. L. 87-851, § 5, Oct. 23, 1962, 76 Stat. 1128.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 701, 704 of this title.

§ 706. Liabilities of occupants; trespass; limitations

(a) The execution of a conveyance as authorized by section 701 of this title shall not relieve any occupant of the land conveyed of any liability, existing on the date of said conveyance, to the United States for unauthorized use of the land in and to which an interest is conveyed.

(b) Except where a mining claim embracing land applied for under this chapter by a qualified applicant was located at a time when the land included therein was withdrawn or otherwise not subject to such location, no trespass charges shall be sought or collected by the United States from any qualified applicant who has filed an application for land in the mining claim pursuant to this chapter, based upon occupancy of such claim, whether residential or otherwise, for any period preceding the final administrative determination of the invalidity of the mining claim by the Secretary of the Interior or the voluntary relinquishment of the mining claim, whichever occurs earlier. Nothing contained in this chapter shall be construed as creating any liability for trespass to the United States which would not exist in the absence of this chapter. Relief under this section shall be limited to persons who file applications for conveyances pursuant to section 701 of this title within the period ending June 30, 1971.

(Pub. L. 87-851, § 6, Oct. 23, 1962, 76 Stat. 1128; Pub. L. 90-111, § 2, Oct. 23, 1967, 81 Stat. 311.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-111 extended from Oct. 23, 1967 to June 30, 1971, the period in which relief shall be accorded under this section to individuals who apply for conveyances pursuant to section 701 of this title.

§ 707. Reservation of mineral rights

In any conveyance under this chapter the mineral interests of the United States in the lands conveyed are reserved for the term of the estate conveyed. Minerals locatable under the mining laws or disposable under subchapter I of chapter 15 of this title, are withdrawn from all forms of entry and appropriation for the term of the estate. The underlying oil, gas, and other leasable minerals of the United States are reserved for exploration and development purposes, but without the right of surface ingress and egress, and may be leased by the Secretary under the mineral leasing laws.

(Pub. L. 87-851, § 7, Oct. 23, 1962, 76 Stat. 1128.)

REFERENCES IN TEXT

The mining laws, referred to in text, are classified generally to this title.

The mineral leasing laws, referred to in text, have been defined in sections 351, 505, 530, and 541e of this title as including the following laws:

The act of Oct. 20, 1914, ch. 330, 38 Stat. 741, popularly known as the Alaska Coal Lands Act, which was repealed by Pub. L. 86-252, § 1, Sept. 9, 1959, 73 Stat. 490. The subject matter of this Act is now generally covered by subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code prior to repeal, see Tables volume.

The act of Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, popularly known as the Mineral Lands Leasing Act, is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

The act of Apr. 17, 1926, ch. 158, 44 Stat. 301, is classified generally to subchapter VIII (§ 271 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Tables volume.

The act of Feb. 7, 1927, ch. 66, 44 Stat. 1057, enacted subchapter IX (§ 281 et seq.) of chapter 3A of this title, amended sections 181 and 193 of this title, and repealed subchapter VII (§ 141 et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables volume.

See also act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, known as the Mineral Leasing Act for Acquired Lands, which is classified generally to chapter 7 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables volume.

§ 708. Assignments; succession

Rights and privileges to qualify as an applicant under this chapter shall not be assignable, but may pass through devise or descent.

(Pub. L. 87-851, § 8, Oct. 23, 1962, 76 Stat. 1128.)

§ 709. Disposition of payments and fees

Payments of filing fees and survey costs, and the payments of the purchase price for patents in fee shall be disposed of by the Secretary of the Interior as are such fees, costs, and purchase prices in the disposition of public lands. All payments and fees for occupancy in conveyances of less than the fee, or for permits for life or shorter periods, shall be disposed of by the administering department or agency as are other receipts for the use of the lands involved.

(Pub. L. 87-851, § 9, Oct. 23, 1962, 76 Stat. 1128.)

CHAPTER 21—METAL AND NONMETALLIC MINE SAFETY

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§ 721. Definitions

For the purposes of this chapter.

(a) The term "commerce" means trade, traffic, commerce, transportation, or communication between any State, the Commonwealth of Puerto Rico, the District of Columbia, or any territory or possession of the United States, and any other place outside the respective boundaries thereof, or wholly within the District of Columbia, or any territory or possession of the United States, or between points in the same State, if passing through any point outside the boundaries thereof.

(b) The term "mine" means (1) an area of land from which minerals other than coal or lignite are extracted in nonliquid form or, if in liquid form, are extracted with workers underground, (2) private ways and roads appurtenant to such area, and (3) land, excavations, underground passageways, and workings, structures, facilities, equipment, machines, tools, or other property, on the surface or underground, used in the work of extracting such minerals other than coal or lignite from their natural deposits in nonliquid form, or if in liquid form, with workers underground, or used in the milling of such minerals, except that with respect to protection against radiation hazards such term shall not include property used in the milling of source material as defined in the Atomic Energy Act of 1954, as amended [42 U.S.C. 2011 et seq.].

(c) The term "operator" means the person, partnership, association, or corporation, or subsidiary of a corporation operating a mine, and owning the right to do so, and includes any agent thereof charged with responsibility for the operation of such mine.

(d) The term "Secretary" means the Secretary of the Interior or his duly authorized representative.

(e) The term "Board" means the Federal Metal and Nonmetallic Mine Safety Board of Review created by section 729 of this title.

(Pub. L. 89-577, § 2, Sept. 16, 1966, 80 Stat. 772.)

References in Text

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b), is act Aug. 30, 1954, ch. 1073, 68 Stat. 921, as amended, which is classified principally to chapter 23 (§ 2011 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 42 and Tables volume.

Effective Date

Section 22 of Pub. L. 89-577 provided that: "This Act [this chapter] shall become effective on the date of its enactment [Sept. 16, 1966], except that section 8 and 9 [sections 727 and 728 of this title], and subsection (b) and paragraph (1) of subsection (a) of section 14 [section 733 of this title] shall become effective one year after the date of publication of notice in the Federal Register of the designation of mandatory standards as provided for in section 6(b) of this Act [section 725(b) of this title]." The notice was published in the Federal Register July 31, 1969, at 34 F.R. 12504.

Short Title

Section 1 of Pub. L. 89-577 provided: "That this Act [enacting this chapter] may be cited as the 'Federal Metal and Nonmetallic Mine Safety Act'."

§ 722. Mines subject to chapter; declination of jurisdiction

(a) Each mine the products of which regularly enter commerce, or the operations of which affect commerce, shall be subject to this chapter.

(b) The Secretary may, by published rules adopted pursuant to subchapter II of chapter 5 of title 5, decline to assert jurisdiction under this chapter over any class or category of mines where, in the opinion of the Secretary, the effect of the operations of such mines on commerce is not sufficiently substantial to warrant the exercise of jurisdiction under this chapter, and the record of injuries and accidents in such class or category of mines warrants such a declination of jurisdiction.

(Pub. L. 89-577, § 3, Sept. 16, 1966, 80 Stat. 773.)

Codification

"Subchapter II of chapter 5 of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 723. Investigations of metal and nonmetallic mines to obtain information relating to health and safety conditions

The Secretary of the Interior is authorized at any time to cause to be made such inspections and investigations as he shall deem necessary in mines which are subject to this chapter (1) for the purpose of obtaining, utilizing, and disseminating information relating to health and safety conditions in such mines, the causes of accidents involving bodily injury or loss of life, or the causes of occupational diseases originating therein, (2) for the purpose of determining whether or not there is compliance with a health and safety standard or order issued under this chapter, or (3) for the purpose of evaluating the manner in which a State plan approved under section 735 of this title is being carried out. At least once each calendar year the Secretary shall inspect each underground mine which is subject to this chapter.

(Pub. L. 89-577, § 4, Sept. 16, 1966, 80 Stat. 773.)

§ 724. Admission of investigators to mines

For the purpose of making any inspection or investigation authorized by this chapter, authorized representatives of the Secretary shall be entitled to admission to, and shall have the right of entry to, upon, or through, any mine which is subject to this chapter.

(Pub. L. 89-577, § 5, Sept. 16, 1966, 80 Stat. 773.)

§ 725. Health and safety standards

(a) Development, revision, and promulgation

The Secretary shall develop, and from time to time revise, after consultation with advisory committees appointed pursuant to section 726 of this title, and promulgate health and safety standards for the purpose of the protection of life, the promotion of health and safety, and the prevention of accidents in mines which are subject to this chapter.

(b) Publication in Federal Register; compliance with mandatory standards

After consultation with an appropriate advisory committee established pursuant to section 726 of this title, the Secretary, by a notice published in the Federal Register, shall designate as mandatory standards those standards promulgated pursuant to subsection (a) of this section which deal with conditions or practices of a kind which could reasonably be expected to cause death or serious physical harm, and the operators of mines to which such standards are applicable shall comply with such mandatory standards pursuant to the provisions of section 727 and section 728 of this title.

(c) Publication in Federal Register of proposed standards; submission of data, views, or arguments by interested persons; promulgation

The Secretary shall publish in the Federal Register, health and safety standards which he proposes to promulgate, and he shall specifically identify those standards which he proposes to designate as mandatory standards, and he shall also specifically designate those mandatory standards which have been recommended by an Advisory Committee appointed pursuant to section 726 of this title. Interested persons shall be afforded a period of not less than 30 days after the publication of the proposed standards in which to submit written data, views, or arguments. Except as provided in subsection (d) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards.

(d) Objections; requests for public hearings; publication in Federal Register; public hearings; evidence; findings; decision; review by United States Court of Appeals for the District of Columbia; petitions; record; conclusiveness of findings; determination; review by Supreme Court; stay of administrative decision

(1) On or before the last day of a period fixed for the submission of written data, views, or arguments, any person who may be adversely affected by a health and safety standard which the Secretary proposes to promulgate and to designate as a mandatory standard may file with the Secretary written objections thereto stating the grounds therefor, and requesting a public hearing (subject to the provisions of subchapter II of chapter 5 of title 5) on such objections. The Secretary shall not promulgate any proposed mandatory standard respecting which such objections have been filed, until he has taken final action upon them as provided in paragraph (2) of this subsection. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed mandatory standards to which such objections have been filed.

(2) If such objections requesting a public hearing are filed, as soon after the expiration of the period for filing such objections as is practical, the Secretary, after due notice, shall hold a public hearing for the purpose of receiving evidence relevant and material to the issues raised by such objections. At the hearing, any interested person may be heard. As soon as practicable after completion of the hearing, the Secretary shall act upon such objections and make his decision public. Such decision shall be based only on substantial evidence of record at such hearing and shall set forth detailed findings of fact on which the decision is based.

(3) Any person aggrieved by a decision of the Secretary under paragraph (2) of this subsection may obtain a review of such order by the United States Court of Appeals for the District of Columbia by filing in such court within 20 days following the issuance of such decision a petition praying that the decision of the Secretary be modified or set aside in whole or in part. A copy of such petition shall forthwith be served upon the Secretary, and thereupon the Secretary shall certify and file in the court the record upon which the decision complained of was issued. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The court shall

have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court, shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28. The commencement of a proceeding under this paragraph (3) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's decision.

(e) Provisions inapplicable to proposed mandatory standards recommended by Advisory Committee

The provisions of subsection (d) of this section shall not be applicable to any proposed mandatory standard which has been recommended by an Advisory Committee appointed pursuant to section 726 of this title.

(Pub. L. 89-577, § 6, Sept. 16, 1966, 80 Stat. 774.)

CODIFICATION

"Subchapter II of chapter 5 of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 735 of this title.

§ 726. Advisory committees

(a) Establishment; representation of interests

The Secretary is authorized to establish advisory committees to assist him in the development of health and safety standards for mines which are subject to this chapter, and to advise him on other matters relating to health and safety in such mines. Each such advisory committee shall include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of operators of such mines, and of persons similarly qualified to present the viewpoint of workers in such mines, as well as one or more representatives of mine inspection or safety agencies of the States.

(b) Compensation and travel expenses

Members appointed to such a committee from private life shall, while serving on business of the committee, be entitled to receive compensation at rates fixed by the Secretary, but not exceeding $100 per day, including travel time; and while so serving away from their homes or regular places of business, they may be paid travel expenses and per diem in lieu of subsistence at the rates authorized by section 5703 of title 5.

(Pub. L. 89-577, § 7, Sept. 16, 1966, 80 Stat. 775.)

CODIFICATION

"Section 5703 of title 5" was substituted for "section 73b-2 of title 5" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 725 of this title.

§ 727. Findings and orders

(a) Withdrawal and debarment from danger area; orders; persons exempt

If, upon any inspection or investigation of a mine which is subject to this chapter, an authorized representative of the Secretary finds that conditions or practices in such mine are such that a danger exists which could reasonably be expected to cause death or serius physical harm immediately or before the imminence of such danger can be eliminated, such representative shall determine the extent of the area of such mine throughout which the danger exists, and thereupon issue an order requiring the operator of such mine to cause all persons, except the following persons whose presence in such area is necessary to eliminate the danger described in such order, to be withdrawn from, and to be debarred from, entering such area:

(1) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to eliminate the danger described in the order; (2) any public official whose official duties require him to enter such area; or (3) any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

(b) Abatement of violations; time limit; withdrawal and debarment from area; orders; persons exempt

If, upon any such inspection or investigation, an authorized representative finds that there

has been a failure to comply with a mandatory standard which is applicable to such mine, but that such failure to comply has not created a danger that could reasonably be expected to cause death or serious physical harm in such mine immediately or before the imminence of such danger can be eliminated, he shall find what would be a reasonable period of time within which such violation should be totally abated and thereupon issue a notice fixing a reasonable time for the abatement of the violation. If, upon the expiration of such period of time as originally fixed or extended, the authorized representative finds that such violation has not been totally abated, and if he also finds that such period of time should not be further extended, he shall also find the extent of the area which is affected by such violation. Thereupon, he shall promptly make an order requiring the operator of such mine to cause all persons in such area, excepting the following persons whose presence in such area is necessary to abate the violation described in the order, to be withdrawn from, and to be debarred from, entering such area:

(1) Any person whose presence in such area is necessary, in the judgment of the operator of the mine, to abate the violation described in the order; (2) any public official whose official duties require him to enter such area; or (3) any legal or technical consultant, or any representative of the employees of the mine, who is a certified person qualified to make mine examinations, or is accompanied by such a person, and whose presence in such area is necessary, in the judgment of the operator of the mine, for the proper investigation of the conditions described in the order.

(c) Description of conditions or practices and area

Findings and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute a situation of imminent danger or a violation of a mandatory standard, and a description of the area of the mine throughout which persons must be withdrawn and debarred.

(d) Notice; written form; signatures; annulment, cancellation, or revision of orders

Each finding made and notice or order issued under this section shall be given promptly to the operator of the mine to which it pertains by the person making such finding or order, and all such findings, orders, and notices shall be in writing, and shall be signed by the person making them. A notice or order issued pursuant to this section may be annulled, canceled, or revised by an authorized representative of the Secretary.

(e) State inspection and report; review of orders

If an order is made pursuant to subsection (a) of this section, and a State inspector did not participate in the inspection on which such order is based, the duly authorized representative of the Secretary who issued the order shall notify the State mine inspection or safety agency immediately, but not later than twenty-four hours after the issuance of such order, that such order has been issued. Following such order the operator of the mine may immediately request the State mine inspection or safety agency to assign a State inspector to inspect the mine. The State agency shall then promptly assign a State inspector to inspect the mine affected by such order and file an inspection report with the Secretary and the State agency. The order of the duly authorized representative of the Secretary shall remain in effect, but shall immediately be subject to review as provided in this chapter.

(Pub. L. 89-577, § 8, Sept. 16, 1966, 80 Stat. 775.)

EFFECTIVE DATE

Section effective one year after date of publication of notice in Federal Register of designation of mandatory standards as provided for in section 725(b) of this title, see section 22 of Pub. L. 89-577, set out as an Effective Date note under section 721 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 725, 728, 729, 730, 733, 735 of this title.

§ 728. Review by Secretary

(a) Application for annulment or revision of order closing mine because of danger; inspection; findings; determination

An operator notified of an order made pursuant to section 727(a) of this title may apply to the Secretary for annulment or revision of such order. Upon receipt of such application the Secretary shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Secretary of the Interior, other than the representative who made such order, to make such inspection of such mine and to report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Secretary shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of making such special inspection. If he finds that such danger did not then exist throughout such area of such mine, he shall make an order, consistent with his findings, revising or annuling the order under review. If he finds that such danger did then exist throughout such area of such mine, he shall make an order denying such application.

(b) Application for annulment or revision of order closing mine for failure to abate violation; inspection; findings; determination

An operator notified of an order made pursuant to section 727(b) of this title may apply to the Secretary for annulment or revision of such order. Upon receipt of such application the Secretary shall make a special inspection of the mine affected by such order, or cause three duly authorized representatives of the Secretary of the Interior, other than the representative who made such order, to make such inspection of such mine and report thereon to him. Upon making such special inspection himself, or upon receiving the report of such inspection made by such representatives, the Secretary shall find whether or not there was a violation of a mandatory safety standard as described in such order, at the time of the making of such order. If he finds there was no such violation, he shall make an order annulling the order under review. If he finds there was such a violation, he shall also find whether or not such vio-

lation was totally abated at the time of the making of such special inspection. If he finds that such violation was totally abated at such time, he shall make an order annulling the order under review. If he finds that such violation was not totally abated at such time, he shall find whether or not the period of time within which such violation should be totally abated, fixed under section 727(b) of this title, should be extended. If he finds that such period of time should be extended, he shall find what a reasonable extension of such period of time would be. Thereupon he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and then he shall make an order, consistent with his findings, revising the order under review. If he finds that such violation was not totally abated at the time of such special inspection, and that such period of time should be not extended, he shall find the extent of the area of such mine which was affected by such violation at the time such special inspection was made, and he shall then make an order, consistent with his findings, affirming or revising the order under review.

(c) Rapidity of action

In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secretary or his representatives are required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

(Pub. L. 89-577, § 9, Sept. 16, 1966, 80 Stat. 777.)

EFFECTIVE DATE

Section effective one year after date of publication of notice in Federal Register of designation of mandatory standards as provided for in section 725(b) of this title, see section 22 of Pub. L. 89-577, set out as an Effective Date note under section 721 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 725, 729, 730, 733, 735 of this title.

§ 729. Federal Metal and Nonmetallic Mine Safety Board of Review

(a) Creation; composition; appointment

An agency is hereby created to be known as the Federal Metal and Nonmetallic Mine Safety Board of Review, which shall be composed of five members who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) Terms of office; vacancies; removal

The terms of office of members of the Board shall be five years, except that the terms of office of the members first appointed shall commence on September 16, 1966, and shall expire one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years and one at the end of five years, as designated by the President at the time of appointment. A member appointed to fill a vacancy caused by the death, resignation, or removal of a member prior to the expiration of the term for which he was appointed shall be appointed only for the remainder of such unexpired term. The members of the Board may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

(c) Compensation; travel expenses; qualifications of members

Each member of the Board shall be compensated at the rate of $50 for each day of actual service (including each day he is traveling on official business) and shall, notwithstanding subchapter I of chapter 57 of title 5, be fully reimbursed for traveling, subsistence, and other related expenses. The Board, at all times, shall consist of two persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of metal and nonmetallic mine operators, two persons who by reason of previous training and experience may reasonably be said to represent the viewpoint of metal and nonmetallic mine workers, and one person, who shall be Chairman of the Board, who shall be a graduate engineer with experience in the metal and nonmetallic mining industry or shall have had at least five years' experience as a practical mining engineer in the metal and nonmetallic mining industry, and who shall not, within one year of his appointment as a member of the Board, have had a pecuniary interest in, or have been regularly employed or engaged in, the metal or nonmetallic mining industry, or have regularly represented either metal or nonmetallic mine operators or workers, or have been an officer or employee of the Department of the Interior assigned to duty in the Bureau of Mines.

(d) Principal office; place of hearings; seal

The principal office of the Board shall be in the District of Columbia. Whenever the Board deems that the convenience of the public or of the parties may be promoted, or delay or expense may be minimized, it may hold hearings or conduct other proceedings at any other place. The Board shall have an official seal which shall be judicially noticed and which shall be preserved in the custody of the secretary of the Board.

(e) Employment of personnel

The Board shall, without regard to the civil service laws, appoint and prescribe the duties of a secretary of the Board and such legal counsel as it deems necessary. Subject to the civil service laws, the Board shall appoint such other employees as it deems necessary in exercising its powers and duties. The compensation of all employees appointed by the Board shall be fixed in accordance with chapter 51 and subchapter III of chapter 53 of title 5.

(f) Quorum; public hearings and records

Three members of the Board shall constitute a quorum, and official actions of the Board shall be taken only on the affirmative vote of at least three members; but a special panel composed of one or more members, upon order of the Board, shall conduct any hearing provided for in section 730 of this title and submit the transcript of such hearing to the entire Board for its action thereon. Every official act of the Board shall be entered of record, and its hearings and records thereof shall be open to the public.

(g) Hearings and determinations

The Board shall hear and determine applications filed pursuant to section 730 of this title for annulment or revision of orders made pursuant to section 727 or section 728 of this title. The Board shall not make or cause to be made any inspection of a mine for the purpose of determining any pending application.

(h) Rules of proceedings

The Board is authorized to make such rules as are necessary for the orderly transaction of its proceedings, which shall include requirement for adequate notice of hearings to all parties.

(i) Subpenas

Any member of the Board may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned before the Board shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(j) Depositions; notice; witness fees

The Board may order testimony to be taken by deposition in any proceeding pending before it, at any stage of such proceeding. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Board, as provided in subsection (i) of this section. Witnesses whose depositions are taken under this subsection, and the persons taking such depositions, shall be entitled to the same fees as are paid for like services in the courts of the United States.

(k) Contumacy; jurisdiction of court; contempts

In the case of contumacy by, or refusal to obey a subpena served upon, any person under this section, the Federal district court for any district in which such person is found or resides or transacts business, upon application by the United States, and after notice to such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Board or to appear and produce documents before the Board, or both; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(l) Reports to Congress

The Board shall submit annually to the Congress as soon as practicable after the beginning of each regular session, a full report of its activities during the preceding calendar year. Such report shall include, either in summary or detailed form, information regarding the cases heard by it and the disposition of each.

(Pub. L. 89-577, § 10, Sept. 16, 1966, 80 Stat. 778.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (e), are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

"Subchapter I of chapter 57 of title 5" was substituted for "the Travel Expense Act of 1949", in subsec. (c), on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

"Chapter 51 and subchapter III of chapter 53 of title 5" was substituted for "the Classification Act of 1949, as amended", in subsec. (e), on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 721 of this title.

§ 730. Review by Board

(a) Application for annulment or revision of closing order

An operator notified of an order made pursuant to section 727 of this title may apply to the Federal Metal and Nonmetallic Mine Safety Board of Review for annulment or revision of such order without seeking its annulment or revision under section 728 of this title. An operator notified of an order made pursuant to section 728 of this title may apply to the Board for annulment or revision of such order.

(b) Contents and allegations of application; service upon Secretary

The operator shall be designated as the applicant in such proceeding, and the application filed by him shall recite the order complained of and other facts sufficient to advise the Board of the nature of the proceeding. He may allege in such application: that danger as set out in such order does not exist at the time of the filing of such application; that violation of a mandatory safety standard, as set out in such order, has not occurred; that such violation has been totally or partially abated; that the period of time within which such violation should be totally abated, as fixed in the findings upon which such order was based, was not reasonable; or that the area of the mine described in such order as the area affected by the violation referred to in such order is not so affected at the time of the filing of such application. The Secretary shall be the respondent in such proceeding, and the applicant shall send a copy of such application by registered mail or by certified mail to the Secretary at Washington, District of Columbia.

(c) Hearing

Immediately upon the filing of such an application the Board shall fix the time for a prompt hearing thereof.

(d) Temporary relief pending hearing

Pending such hearing the applicant may file with the Board a written request that the Board grant such temporary relief from such order as the Board may deem just and proper. Such temporary relief may be granted by the Board only after a hearing by the Board at which both the applicant and the respondent were afforded an opportunity to be heard, and

only if respondent was given ample notice of the filing of applicant's request and of the time and place of the hearing thereon as fixed by the Board.

(e) Evidence

The Board shall not be bound by any previous findings of fact by the respondent. Evidence relating to the making of the order complained of and relating to the questions raised by the allegations of the pleadings or other questions pertinent in the proceeding may be offered by both parties to the proceeding. If the respondent claims that imminent danger or violation of a mandatory safety standard, as set out in such order, existed at the time of the filing of the application, the burden of proving the then existence of such danger or violation shall be upon the respondent, and the respondent shall present his evidence first to prove the then existence of such danger or violation. Following presentation of respondent's evidence the applicant may present his evidence, and thereupon the respondent may present evidence to rebut the applicant's evidence.

(f) Findings on order closing mine because of danger; determination

If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 727(a) of this title the Board, upon conclusion of the hearing, shall find whether or not danger throughout the area of such mine as set out in such order existed at the time of the filing of the oprator's application. If the Board finds that such danger did not then exist throughout such area of such mine, the Board shall make an order, consistent with its findings, revising or annulling the order under review. If the Board finds that such danger did then exist throughout such area of such mine, the Board shall make an order denying such application.

(g) Findings on order closing mine for failure to abate violations; determination

If the proceeding is one in which an operator seeks annulment or revision of an order made pursuant to section 727(b) of this title, the Board upon conclusion of the hearing shall find whether or not there was a violation of a mandatory safety standard as described in such order, at the time of the making of such order. If the Board finds there was no such violation, the Board shall make an order annulling the order under review. If the Board finds there was such a violation, the Board shall also find whether or not such violation was totally abated at the time of the filing of the operator's application. If the Board finds that such violation was totally abated at such time, the Board shall make an order annulling the order under review. If the Board finds that such violation was not totally abated at such time, the Board shall find whether or not the period of time within which such violation should be totally abated fixed under section 727(b) or section 728(b) of this title should be extended. If the Board finds that such period of time should be extended, the Board shall also find what a reasonable extension of time should be, and shall immediately also find the extent of the area of such mine which was affected by such violation at the time of the filing of such application and the Board shall then make an order consistent with its findings, revising the order under review. If the Board finds that such violation was not totally abated at the time of the filing of the operator's application and that such period of time should not be extended, the Board shall find the extent of the area of such mine which was affected by such violation at such time, and shall make an order, consistent with its findings, affirming or revising the order under review.

(h) Contents and form of findings; notification of parties; record

Each finding and order made by the Board shall be in writing. It shall show the date on which it is made, and shall bear the signatures of the members of the Board who concur therein. Upon making a finding and order the Board shall cause a true copy thereof to be sent by registered mail or by certified mail to all parties or their attorneys of record. The Board shall cause each such finding and order to be entered on its official record, together with any written opinion prepared by any members in support of, or dissenting from, any such finding or order.

(i) Rapidity of action

In view of the urgent need for prompt decision of matters submitted to the Board under this section, all action which the Board is required to take under this section shall be taken as rapidly as practicable, consistent with adequate consideration of the issues involved.

(Pub. L. 89-577, § 11, Sept. 16, 1966, 80 Stat. 779.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 729, 731 of this title.

§ 731. Judicial review

(a) Court of appeals; notice of appeal

Any final order issued by the Board under section 730 of this title shall be subject to judicial review by the United States court of appeals for the circuit in which the mine affected is located, upon the filing [1]n such court of a notice of appeal by the Secretary or the operator aggrieved by such final order within thirty days from the date of the making of such final order.

(b) Copies of notice of appeal; transcript

The party making such appeal shall forthwith send a copy of such notice of appeal, by registered mail or by certified mail, to the other party and to the Board. Upon receipt of such copy of a notice of appeal the Board shall promptly certify and file in such court a complete transcript of the record upon which the order complained of was made. The costs of such transcript shall be paid by the party making the appeal.

(c) Procedure

The court shall hear such appeal on the record made before the Board, and shall permit argument, oral or written or both, by both parties. The court shall permit such pleadings, in additions [1] to the pleadings before the Board, as

[1]So in original. Probably should be "addition".

it deems to be required or as provided for in the Rules of Civil Procedure governing appeals in such court.

(d) Postponement of order

Upon such conditions as may be required and to the extent necessary to prevent irreparable injury the United States court of appeals may, after due notice to and hearing of the parties to the appeal, issue all necessary and appropriate process to postpone the effective date of the final order of the Board or to grant such other relief as may be appropriate pending final determination of the appeal.

(e) Determination

The United States court of appeals may affirm, annul, or revise the final order of the Board, or it may remand the proceeding to the Board for such further action as it directs. The findings of the Board as to facts, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(f) Supreme Court

The decision of a United States court of appeals on an appeal from the Board shall be final, subject only to review by the Supreme Court as provided in section 1254 of title 28.

(Pub. L. 89-577, § 12, Sept. 16, 1966, 80 Stat. 781.)

REFERENCES IN TEXT

The Rules of Civil Procedure, referred to in subsec. (c), probably mean the Federal Rules of Appellate Procedure, which are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

§ 732. Accident and related reports to Secretary; publications; public inspection of information

The Secretary shall require operators of mines which are subject to this chapter to submit, at least annually and at such other times as he deems necessary, and in such form as he may prescribe, reports of accidents, injuries, and occupational diseases, and related data, and the Secretary shall compile, analyze, and publish, either in summary or detailed form, the information obtained; and all information, reports, orders, or findings, obtained or issued under this chapter may be published and released to any interested person and shall be made available for public inspection.

(Pub. L. 89-577, § 13, Sept. 16, 1966, 80 Stat. 782.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 733 of this title.

§ 733. Penalties for violations; civil and criminal liability

(a) Whenever an operator (1) violates or fails or refuses to comply with any order of withdrawal and debarment issued under section 727 or section 728 of this title, or (2) interferes with, hinders, or delays the Secretary, or his duly authorized representative, in carrying out his duties under this chapter, or (3) refuses to admit an authorized representative of the Secretary to any mine which is subject to this chapter, or (4) refuses to permit the inspection or investigation of any mine which is subject to this chapter, or of an accident, injury, or occupational disease occurring in or connected with such a mine or (5) being subject to the provisions of section 732 of this title, refuses to furnish any information or report requested by the Secretary, a civil action for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order, may be instituted by the Secretary in the district court of the United States of the district in which the mine in question is located or in which the mine operator has its principal office.

(b) Whoever violates or fails or refuses to comply with an order of withdrawal and debarment issued (1) under subsection (a) of section 727 of this title or (2) under subsection (b) of section 727 of this title if the failure to comply with an order of abatement has created a danger that could cause death or serious physical harm in such mine immediately or before the imminence of such danger can be eliminated, shall upon conviction thereof be punished for each such offense by a fine of not less than $100, or more than $3,000, or by imprisonment not to exceed sixty days, or both. In any instance in which such offense is committed by a corporation, the officer or authorized representative of such corporation who knowingly permits such offense to be committed shall, upon conviction, be subject to the same fine or imprisonment, or both.

(Pub. L. 89-577, § 14, Sept. 16, 1966, 80 Stat. 782.)

EFFECTIVE DATE

Subsecs. (a)(2) to (5) of this section effective Sept. 16, 1966, and subsecs. (a)(1) and (b) effective one year after date of publication of notice in Federal Register of designation of mandatory standards as provided for in section 725(b) of this title, see section 22 of Pub. L. 89-577, set out as an Effective Date note under section 721 of this title.

§ 734. Education and training

The Secretary shall develop expanded programs for the education and training of employers and employees in the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in mines which are subject to this chapter.

(Pub. L. 89-577, § 15, Sept. 16, 1966, 80 Stat. 782.)

§ 735. State plans

(a) Cooperation with State agencies

In order to promote sound and effective coordination in Federal and State activities within the field covered by this chapter, the Secretary shall cooperate with the official mine inspection or safety agencies of the several States.

(b) Submission

Any State which, at any time, desires to develop and enforce health and safety standards in mines located in the State which are subject to this chapter shall submit, through a State mine inspection or safety agency, a State plan for the development of such standards and their enforcement.

(c) Approval by Secretary

The Secretary shall approve the plan submitted by a State under subsection (b) of this section, or any modification thereof, whenever the State gives evidence satisfactory to the Secretary that under such plan—

(1) the State agency submitting such plan is the sole agency responsible for administering the plan throughout the State and contains satisfactory evidence that such agency will have the authority to carry out the plan: *Provided*, That the Secretary may, upon request of the Governor or other appropriate executive or legislative authority of the State responsible for determining or revising the organizational structure of State government, waive the single State agency provision hereof and approve another State administrative structure or arrangement if the Secretary determines that the objectives of this chapter will not be endangered by the use of such other State structure or arrangement,

(2) such agency has adequate legal authority to enforce existing health and safety standards for the purpose of the protection of life, the promotion of health and safety, and the prevention of accidents in mines in the State that are subject to this chapter, which are, in his judgment, substantially as effective for such purposes as the mandatory standards designated under section 725(b) of this title and which provide for inspection at least annually of all such mines, other than quarries and sand and gravel pits,

(3) the agency has adequate qualified personnel necessary for the enforcement of the plan,

(4) the State will devote adequate funds to the administration and enforcement of such standards,

(5) reasonable safeguards exist against loss of life or property arising from mines which are closed or abandoned after the effective date of this chapter, and

(6) the agency shall make such reports to the Secretary, in such form and containing such information, as the Secretary shall from time to time require.

(d) Withdrawal of approval

The Secretary shall, on the basis of reports submitted by the State agency and his own inspection of mines, make a continuing evaluation of the manner in which each State having a plan approved under this section is carrying out such plan. Whenever the Secretary finds, after affording due notice and opportunity for a hearing, that in the administration of the State plan there is a failure to comply substantially with any provision of the State plan (or any assurance contained therein), he shall notify the State agency of his withdrawal of approval of such plan and upon receipt of such notice such plan shall cease to be in effect.

(e) Federal provisions inapplicable

The provisions of sections 727(b) and 728(b) of this title shall not be applicable in any State in which there is in effect a State plan approved under subsection (c) of this section.

(Pub. L. 89-577, § 16, Sept. 16, 1966, 80 Stat. 782.)

REFERENCES IN TEXT

Effective date of this chapter, referred to in subsec. (c)(5), is Sept. 16, 1966, except that effective date of sections 727, 728, and 733(a)(1), (b) of this title is effective one year after date of publication of notice in Federal Register of designation of mandatory standards as provided for in section 725(b) of this title, see section 22 of Pub. L. 89-577, set out as an Effective Date note under section 721 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 723 of this title.

§ 736. Administration by Bureau of Mines; employment, powers, duties, and responsibilities of officers and employees; qualifications of mine inspectors

The Secretary shall provide that the major responsibility for administering the provisions of this chapter shall be vested in the Bureau of Mines of the Department of the Interior which has the major responsibility for carrying out the Federal Coal Mine Safety Act [30 U.S.C. 451 et seq.]. The Secretary acting through the Bureau, shall have authority to appoint, subject to the civil service laws, such officers and employees as he may deem requisite for the administration of this chapter; and to prescribe powers, duties, and responsibilities of all officers and employees engaged in the administration of this chapter: *Provided, however*, That, to the maximum extent feasible, in the selection of persons for appointment as mine inspectors, no person shall be so selected unless he has the basic qualifications of at least five years practical mining experience and in assigning mine inspectors to the inspection and investigation of individual mines, due consideration shall be given to their previous practical experience in the State, district, or region, and in the particular type of mining operation where such inspections are to be made.

(Pub. L. 89-577, § 17, Sept. 16, 1966, 80 Stat. 783.)

REFERENCES IN TEXT

The Federal Coal Mine Safety Act, referred to in text, is act May 7, 1941, ch. 87, 55 Stat. 177, which was classified generally to chapter 10 (§ 451 et seq.) of this title, and was repealed by Pub. L. 91-173, title V, § 509, Dec. 30, 1969, 83 Stat. 803. For further details, see Repeals note set out under chapter 10 of this title. For complete classification of this Act to the Code prior to such repeal, see Tables volume.

The civil service laws, referred to in text, are set out in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

§ 737. Applicability of administrative procedure provisions.

Subchapter II of chapter 5, and chapter 7, of title 5 shall not apply to the making of any finding, order, or notice pursuant to this chapter, or to any proceeding for the annulment or revision of any such finding, order, or notice.

(Pub. L. 89-577, § 18, Sept. 16, 1966, 80 Stat. 784.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 738. Effect on State laws

(a) Conflict with this chapter

No State or territorial law in effect upon the effective date of this chapter or which may become effective thereafter, shall be superseded by any provision of this chapter, except insofar as such State or territorial law is in conflict with this chapter, or with orders issued pursuant to this chapter.

(b) State laws providing greater degree of safety

Provisions in any State or territorial law in effect upon the effective date of this chapter, or which may become effective thereafter, which provide for greater safety of persons in a mine as defined in this chapter, than do provisions of this chapter, which relate to the same phase of such operations, shall not be construed or held to be in conflict with this chapter. Provisions in any State or territorial law in effect upon the effective date of this chapter, or which may become effective thereafter, which provide for the safety of persons in a mine as defined in this chapter concerning which no provision is contained in this chapter, shall not be construed or held to be superseded by this chapter.

(c) Workmen's compensation laws

Nothing in this chapter shall be construed or held to supersede or in any manner affect the workmen's compensation laws of any State or territory, or to enlarge or diminish or affect in any other manner the common law or statutory rights, duties, or liabilities of employers and employees under State or territorial laws in respect of injuries, occupational or other diseases, or death of employees arising out of, or in the course of, employment.

(Pub. L. 89-577, § 19, Sept. 16, 1966, 80 Stat. 784.)

REFERENCES IN TEXT

Effective date of this chapter, referred to in subsecs. (a) and (b), is Sept. 16, 1966, except that effective date of sections 727, 728, and 733(a)(1), (b) of this title is effective one year after date of publication of notice in Federal Register of designation of mandatory standards as provided for in section 725(b) of this title, see section 22 of Pub. L. 89-577, set out as an Effective Date note under section 721 of this title.

§ 739. Reports to Congress

The Secretary shall submit annually to the Congress, as soon as practicable after the beginning of each regular session, a full report of the administration of his functions under this chapter during the preceding calendar year. Such report shall include, either in summary or detailed form, the information obtained by him under this chapter, together with such findings and comments thereon and such recommendations for legislative action as he may deem proper.

(Pub. L. 89-577, § 20, Sept. 16, 1966, 80 Stat. 784.)

§ 740. Authorization of appropriations

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this chapter.

(Pub. L. 89-577, § 21, Sept. 16, 1966, 80 Stat. 784.)

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957. Promulgation of regulations.
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959. Study of coordination of Federal and State activities; report.

Sec.
960. Limitation on issuance of temporary restraining order or preliminary injunction.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 6211.

§ 801. Congressional findings and declaration of purpose

Congress declares that—

(a) the first priority and concern of all in the coal mining industry must be the health and safety of its most precious resource—the miner;

(b) deaths and serious injuries from unsafe and unhealthful conditions and practices in the coal mines cause grief and suffering to the miners and to their families;

(c) there is an urgent need to provide more effective means and measures for improving the working conditions and practices in the Nation's coal mines in order to prevent death and serious physical harm, and in order to prevent occupational diseases originating in such mines;

(d) the existence of unsafe and unhealthful conditions and practices in the Nation's coal mines is a serious impediment to the future growth of the coal mining industry and cannot be tolerated;

(e) the operators of such mines with the assistance of the miners have the primary responsibility to prevent the existence of such conditions and practices in such mines.

(f) the disruption of production and the loss of income to operators and miners as a result of coal mine accidents or occupationally caused diseases unduly impedes and burdens commerce; and

(g) it is the purpose of this chapter (1) to establish interim mandatory health and safety standards and to direct the Secretary of Health, Education, and Welfare and the Secretary of the Interior to develop and promulgate improved mandatory health or safety standards to protect the health and safety of the Nation's coal miners; (2) to require that each operator of a coal mine and every miner in such mine comply with such standards; (3) to cooperate with, and provide assistance to, the States in the development and enforcement of effective State coal mine health and safety programs; and (4) to improve and expand, in cooperation with the States and the coal mining industry, research and development and training programs aimed at preventing coal mine accidents and occupationally caused diseases in the industry.

(Pub. L. 91-173, § 2, Dec. 30, 1969, 83 Stat. 742.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (g), read in the original "this Act", meaning Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, which is classified generally to this chapter. For complete classification of this Act to the Code, see Short Title note set out below and Tables volume.

EFFECTIVE DATE

Section 509 of Pub. L. 91-173 provided that: "Except to the extent an earlier date is specifically provided in this Act [which enacted this chapter, amended sections 633 and 636 of Title 15, Commerce and Trade, repealed sections 451 to 460 and 471 to 483 of this title, and enacted provisions set as notes under this section and section 636 of Title 15], the provisions of titles I and III of this Act [subchapters I and III of this chapter] shall become operative ninety days after the date of enactment of this Act [Dec. 30, 1969], and the provisions of title II of this Act [subchapter II of this chapter] shall become operative six months after the date of enactment of this Act [Dec. 30, 1969]. The provisions of the Federal Coal Mine Safety Act, as amended [section 451 et seq. of this title], are repealed on the operative date of titles I and III of this Act except that such provisions shall continue to apply to any order, notice, decision, or finding issued under that Act prior to such operative date and to any proceedings related to such order, notice, decision or findings. All other provisions of this Act, shall be effective on the date of enactment of this Act [Dec. 30, 1969]."

SHORT TITLE OF 1972 AMENDMENT

Section 1(a) of Pub. L. 92-303 provided that: "[T]his Act [enacting sections 925, 937 to 941 of this title, amending sections 901, 902, 921, 922, 923, 924, 931, 932, 933, 934, and 936 of this title, and enacting provisions set out as notes under sections 921, 922, and 923 of this title] may be cited as the 'Black Lung Benefits Act of 1972'."

SHORT TITLE

Section 1 of Pub. L. 91-173 provided: "That this Act [which enacted this chapter, amended sections 633, and 636 of Title 15, Commerce and Trade, repealed sections 451 to 460 and 471 to 483 of this title, and enacted provisions set out as notes under this section and section 636 of Title 15] may be cited as the 'Federal Coal Mine Health and Safety Act of 1969'."

SEPARABILITY OF PROVISIONS

Section 510 of Pub. L. 91-173 provided that: "If any provision of this Act [see Short Title note set out above], or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

§ 802. Definitions

For the purpose of this chapter, the term—

(a) "Secretary" means the Secretary of the Interior or his delegate;

(b) "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between a place in a State and any place outside thereof, or within the District of Columbia or a possession of the United States, or between points in the same State but through a point outside thereof;

(c) "State" includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands;

(d) "operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine;

(e) "agent" means any person charged with responsibility for the operation of all or a part of a coal mine or the supervision of the miners in a coal mine;

(f) "person" means any individual, partnership, association, corporation, firm, subsidiary of a corporation, or other organization;

(g) "miner" means any individual working in a coal mine;

(h) "coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of

such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

(i) "work of preparing the coal" means the breaking, crushing, sizing, cleaning, washing, drying, mixing, storing, and loading of bituminous coal, lignite, or anthracite, and such other work of preparing such coal as is usually done by the operator of the coal mine;

(j) "imminent danger" means the existence of any condition or practice in a coal mine which could reasonably be expected to cause death or serious physical harm before such condition or practice can be abated;

(k) "accident" includes a mine explosion, mine ignition, mine fire, or mine inundation, or injury to, or death of, any person;

(*l*) "mandatory health or safety standard" means the interim mandatory health or safety standards established by subchapters II and III of this chapter, and the standards promulgated pursuant to subchapter I of this chapter; and

(m) "Panel" means the Interim Compliance Panel established by this chapter.

(Pub. L. 91-173, § 3, Dec. 30, 1969, 83 Stat. 743.)

§ 803. Mines subject to coverage

Each coal mine, the products of which enter commerce, or the operations or products of which affect commerce, and each operator of such mine, and every miner in such mine shall be subject to the provisions of this chapter.

(Pub. L. 91-173, § 4, Dec. 30, 1969, 83 Stat. 744.)

§ 804. Interim Compliance Panel

(a) Establishment; composition

There is hereby established the Interim Compliance Panel, which shall be composed of five members as follows:

(1) Assistant Secretary of Labor for Labor Standards, Department of Labor, or his delegate;

(2) Director of the Bureau of Standards, Department of Commerce, or his delegate;

(3) Administrator of Consumer Protection and Environmental Health Service, Department of Health, Education, and Welfare, or his delegate;

(4) Director of the Bureau of Mines, Department of the Interior, or his delegate; and

(5) Director of the National Science Foundation, or his delegate.

(b) Compensation; travel and subsistence expenses

Members of the Panel shall serve without compensation in addition to that received in their regular employment, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of duties vested in the Panel.

(c) Cooperation of Federal agencies

Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare, the Secretary of Commerce, the Secretary of Labor, and the Secretary shall, upon request of the Panel, provide the Panel such personnel and other assistance as the Panel determines necessary to enable it to carry out its functions under this chapter.

(d) Quorum; voting; selection of chairman

Three members of the Panel shall constitute a quorum for doing business. All decisions of the Panel shall be by majority vote. The chairman of the Panel shall be selected by the members from among the membership thereof.

(e) Appointment of hearing examiners; applicability of section 3105 of title 5

The Panel is authorized to appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with the provisions of this chapter. The provisions applicable to hearing examiners appointed under section 3105 of title 5 shall be applicable to hearing examiners appointed pursuant to this subsection.

(f) Functions; hearings; notice and review; termination; annual report

(1) It shall be the function of the Panel to carry out the duties imposed on it pursuant to this chapter and to provide an opportunity for a public hearing, after notice, at the request of an operator of the affected coal mine or the representative of the miners of such mine. Any operator or representative of miners aggrieved by a final decision of the Panel may file a petition for review of such decision under section 816 of this title. The provisions of this section shall terminate upon completion of the Panel's functions as set forth under this chapter. Any hearing held pursuant to this subsection shall be of record and the Panel shall make findings of fact and shall issue a written decision incorporating its findings therein in accordance with section 554 of title 5.

(2) The Panel shall make an annual report, in writing, to the Secretary for transmittal by him to the Congress concerning the achievement of its purposes, and any other relevant information (including any recommendations) which it deems appropriate.

(Pub. L. 91-173, § 5, Dec. 30, 1969, 83 Stat. 744.)

Section Referred to in Other Sections

This section is referred to in section 865 of this title.

SUBCHAPTER I—HEALTH AND SAFETY STANDARDS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 802, 841, 861, 938 of this title.

§ 811. Promulgation and revision of mandatory health and safety standards

(a) Power of Secretary; transmittal

The Secretary shall, in accordance with the procedures set forth in this section, develop, promulgate, and revise, as may be appropriate, improved mandatory safety standards for the protection of life and the prevention of injuries in a coal mine, and shall, in accordance with the procedures set forth in this section, promulgate the mandatory health standards transmitted to him by the Secretary of Health, Education, and Welfare.

(b) Retention of greater safety standards

No improved mandatory health or safety standard promulgated under this subchapter shall reduce the protection afforded miners below that provided by any mandatory health or safety standard.

(c) Safety standards; development and revision; consultation with Federal agencies and interested parties; basis of determination

In the development and revision of mandatory safety standards, the Secretary shall consult with the Secretary of Health, Education, and Welfare, the Secretary of Labor, and with other interested Federal agencies, appropriate representatives of State agencies, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, and such advisory committees as he may appoint. Such development and revision of mandatory safety standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of safety protection for miners, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other safety statutes.

(d) Health standards; development and revision; consultation with Federal agencies and interested parties; basis of determination

The Secretary of Health, Education, and Welfare shall, in accordance with the procedures set forth in this section, develop and revise, as may be appropriate, improved mandatory health standards for the protection of life and the prevention of occupational diseases of miners. In the development and revision of mandatory health standards, the Secretary of Health, Education, and Welfare shall consult with the Secretary, the Secretary of Labor, and with other interested Federal agencies, appropriate representatives of State agencies, appropriate representatives of the coal mine operators and miners, other interested persons and organizations, such advisory committees as he may appoint, and, where appropriate, foreign countries. Such development and revision of mandatory standards shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health protection for the miner, other considerations shall be the latest available scientific data in the field, the technical feasibility of the standards, and experience gained under this and other health statutes. Mandatory health standards which the Secretary of Health, Education, and Welfare develops or revises shall be transmitted to the Secretary, and shall thereupon be published in the Federal Register by the Secretary as proposed mandatory health standards.

(e) Publication in Federal Register of proposed standards; submission of data by interested parties; modifications

The Secretary shall publish proposed mandatory health and safety standards in the Federal Register and shall afford interested persons a period of not less than thirty days after publication to submit written data or comments. In the case of mandatory safety standards, except as provided in subsection (f) of this section, the Secretary may, upon the expiration of such period and after consideration of all relevant matter presented, promulgate such standards with such modifications as he may deem appropriate. In the case of mandatory health standards, except as provided in subsection (f) of this section, the Secretary of Health, Education, and Welfare may, upon the expiration of such period and after consideration of all relevant matter presented to the Secretary and transmitted to the Secretary of Health, Education, and Welfare, direct the Secretary to promulgate such standards with such modifications as the Secretary of Health, Education, and Welfare may deem appropriate and the Secretary shall thereupon promulgate such standards.

(f) Objections to proposed standards; request for public hearing; publication in Federal Register

On or before the last day of any period fixed for the submission of written data or comments under subsection (e) of this section, any interested person may file with the Secretary written objections to a proposed mandatory health or safety standard, stating the grounds therefor and requesting a public hearing on such objections. As soon as practicable after the period for filing such objections has expired, the Secretary shall publish in the Federal Register a notice specifying the proposed mandatory health or safety standards to which objections have been filed and a hearing requested.

(g) Hearings; findings of fact; promulgation of standards; publication of modifications and basis for determination

Promptly after any such notice is published in the Federal Register by the Secretary under subsection (f) of this section, the Secretary, in the case of mandatory safety standards, or the Secretary of Health, Education, and Welfare, in the case of mandatory health standards, shall issue notice of, and hold, a public hearing for the purpose of receiving relevant evidence. Within sixty days after completion of the hearings, the Secretary who held the hearing shall make findings of fact which shall be public. In the case of mandatory safety standards, the Secretary may promulgate such standards with such modifications as he deems appropriate. In the case of mandatory health standards, the Secretary of Health, Education, and Welfare may direct the Secretary to promulgate the mandatory health standards with such modifications as the Secretary of Health, Education, and Welfare deems appropriate and the Secretary shall thereupon promulgate the mandatory health standards. In the event the Secretary or the Secretary of Health, Education, and Welfare, as the case may be, determines that a proposed mandatory health or safety standard should not be promulgated or should be modified, he shall within a reasonable time publish his reasons for his determination.

(h) Effective date of standards

Any mandatory health or safety standard promulgated under this section shall be effective upon publication in the Federal Register unless the Secretary or the Secretary of

Health, Education, and Welfare, as appropriate, specifies a later date.

(i) Proposed standards for surface mines; publication

Proposed mandatory health and safety standards for surface coal mines shall be published by the Secretary, in accordance with the provisions of this section, not later than twelve months after December 30, 1969. Proposed mandatory health and safety standards for surface work areas of underground coal mines, in addition to those established for such areas under this chapter, shall be published by the Secretary, in accordance with the provisions of this section, not later than twelve months after December 30, 1969.

(j) Publication in Federal Register of prior consistent regulations

All interpretations, regulations, and instructions of the Secretary or the Director of the Bureau of Mines, in effect on December 30, 1969 and not inconsistent with any provision of this chapter, shall be published in the Federal Register and shall continue in effect until modified or superseded in accordance with the provisions of this chapter.

(k) Distribution of proposed standards; posting of copies

The Secretary shall send a copy of every proposed standard or regulation at the time of publication in the Federal Register to the operator of each coal mine and the representative of the miners at such mine and such copy shall be immediately posted on the bulletin board of the mine by the operator or his agent, but failure to receive such notice shall not relieve anyone of the obligation to comply with such standard or regulation.

(Pub. L. 91-173, title I, § 101, Dec. 30, 1969, 83 Stat. 745.)

EFFECTIVE DATE

Subchapter operative 90 days after Dec. 30, 1969, except to the extent an earlier date is specifically provided for in Pub. L. 91-173, see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 841, 842, 846, 861 of this title.

§ 812. Advisory committees

(a) Committee on coal mine safety research; establishment; composition; designation of chairman; functions; conflict of interests

(1) The Secretary shall appoint an advisory committee on coal mine safety research composed of—

(A) the Director of the Office of Science and Technology, or his delegate, with the consent of the Director;

(B) the Director of the National Bureau of Standards, Department of Commerce, or his delegate, with the consent of the Director;

(C) the Director of the National Science Foundation, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary may appoint who are knowledgeable in the field of coal mine safety research.

The Secretary shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary on matters involving or relating to coal mine safety research. The Secretary shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grant, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secretary pursuant to paragraph (1)(D) of this subsection shall be individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(b) Committee on coal mine health research; establishment; composition; designation of chairman; functions; conflict of interests

(1) The Secretary of Health, Education, and Welfare shall appoint an advisory committee on coal mine health research composed of—

(A) the Director, Bureau of Mines, or his delegate, with the consent of the Director;

(B) the Director of the National Science Foundation, or his delegate, with the consent of the Director;

(C) the Director of the National Institutes of Health, or his delegate, with the consent of the Director; and

(D) such other persons as the Secretary of Health, Education, and Welfare may appoint who are knowledgeable in the field of coal mine health research.

The Secretary of Health, Education, and Welfare shall designate the chairman of the committee.

(2) The advisory committee shall consult with, and make recommendations to, the Secretary of Health, Education, and Welfare on matters involving or relating to coal mine health research. The Secretary of Health, Education, and Welfare shall consult with, and consider the recommendations of, such committee in the conduct of such research, the making of any grant, and the entering into of contracts for such research.

(3) The chairman of the committee and a majority of the persons appointed by the Secre-

tary of Health, Education, and Welfare pursuant to paragraph (1)(D) of this subsection shall be individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(c) Additional advisory committees; appointment of chairman; conflict of interests

The Secretary or the Secretary of Health, Education, and Welfare may appoint other advisory committees as he deems appropriate to advise him in carrying out the provisions of this chapter. The Secretary or the Secretary of Health, Education, and Welfare, as the case may be, shall appoint the chairman of each such committee, who shall be an individual who has no economic interest in the coal mining industry, and who is not an operator, miner, or an officer or employee of the Federal Government or any State or local government. A majority of the members of any such advisory committee appointed pursuant to this subsection shall be composed of individuals who have no economic interests in the coal mining industry, and who are not operators, miners, or officers or employees of the Federal Government or any State or local government.

(d) Compensation; travel and subsistence expenses

Advisory committee members, other than officers or employees of Federal, State, or local governments, shall be, for each day (including traveltime) during which they are performing committee business, entitled to receive compensation at a rate fixed by the appropriate Secretary but not in excess of the maximum rate of pay for grade GS-18 as provided in the General Schedule under section 5332 of title 5, and shall, notwithstanding the limitations of sections 5703 and 5704 of title 5, be fully reimbursed for travel, subsistence, and related expenses.

(Pub. L. 91-173, title I, § 102, Dec. 30, 1969, 83 Stat. 747.)

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2, of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, was abolished by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, both set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory Committees established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 813. Inspections and investigations

(a) Purposes

Authorized representatives of the Secretary shall make frequent inspections and investigations in coal mines each year for the purpose of (1) obtaining, utilizing, and disseminating information relating to health and safety conditions, the causes of accidents and the causes of diseases and physical impairments originating in such mines, (2) gathering information with respect to mandatory health or safety standards, (3) determining whether an imminent danger exists, and (4) determining whether or not there is compliance with the mandatory health or safety standards or with any notice, order, or decision issued under this subchapter. In carrying out the requirements of clauses (3) and (4) of this subsection, no advance notice of an inspection shall be provided to any person. In carrying out the requirements of clauses (3) and (4) of this subsection in each underground coal mine, such representatives shall make inspections of the entire mine at least four times a year.

(b) Right of entry of investigators

(1) For the purpose of making any inspection or investigation under this chapter, the Secretary or any authorized representative of the Secretary shall have a right of entry to, upon, or through any coal mine.

(2) For the purpose of developing improved mandatory health standards, the Secretary of Health, Education, and Welfare or his authorized representative shall have a right of entry to, upon, or through, any coal mine.

(3) The provisions of this chapter relating to investigations and records shall be available to the Secretary of Health, Education, and Welfare to enable him to carry out his functions and responsibilities under this chapter.

(c) Utilization of facilities and personnel of other Federal agencies

For the purpose of carrying out his responsibilities under this chapter, including the enforcement thereof, the Secretary may by agreement utilize with or without reimbursement the services, personnel, and facilities of any Federal agency.

(d) Hearings; subpena; fees; contempt

For the purpose of making any investigation of any accident or other occurrence relating to health or safety in a coal mine, the Secretary may, after notice, hold public hearings, and may sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person under this section, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the

United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) Notice of accident; preservation of evidence; supervision of rescue operations

In the event of any accident occurring in a coal mine, the operator shall notify the Secretary thereof and shall take appropriate measures to prevent the destruction of any evidence which would assist in investigating the cause or causes thereof. In the event of any accident occurring in a coal mine where rescue and recovery work is necessary, the Secretary or an authorized representative of the Secretary shall take whatever action he deems appropriate to protect the life of any person, and he may, if he deems it appropriate, supervise and direct the rescue and recovery activity in such mine.

(f) Orders to insure protection of persons and property

In the event of any accident occurring in a coal mine, an authorized representative of the Secretary, when present, may issue such orders as he deems appropriate to insure the safety of any person in the coal mine, and the operator of such mine shall obtain the approval of such representative, in consultation with appropriate State representatives, when feasible, of any plan to recover any person in the mine or to recover the mine or to return affected areas of the mine to normal.

(g) Imminent danger notice; requisites; special inspection

Whenever a representative of the miners has reasonable grounds to believe that a violation of a mandatory health or safety standard exists, or an imminent danger exists, such representative shall have a right to obtain an immediate inspection by giving notice to the Secretary or his authorized representative of such violation or danger. Any such notice shall be reduced to writing, signed by the representative of the miners, and a copy shall be provided the operator or his agent no later than at the time of inspection, except that, upon the request of the person giving such notice, his name and the names of individual miners referred to therein shall not appear in such copy. Upon receipt of such notification, a special inspection shall be made as soon as possible to determine if such violation or danger exists in accordance with the provisions of this subchapter.

(h) Accompaniment right of representative of miners

At the commencement of any inspection of a coal mine by an authorized representative of the Secretary, the authorized representative of the miners at the mine at the time of such inspection shall be given an opportunity to accompany the authorized representative of the Secretary on such inspection.

(i) Hazardous conditions; spot inspections

Whenever the Secretary finds that a mine liberates excessive quantities of methane or other explosive gases during its operations, or that a methane or other gas ignition or explosion has occurred in such mine which resulted in death or serious injury at any time during the previous five years, or that there exists in such mine other especially hazardous conditions, he shall provide a minimum of one spot inspection by his authorized representative of all or part of such mine during every five working days at irregular intervals.

(Pub. L. 91-173, title I, § 103, Dec. 30, 1969, 83 Stat. 749.)

CROSS REFERENCES

Witnesses, per diem and mileage, see section 1821 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 814. Findings, notices, and orders

(a) Imminent danger; prerequisites; withdrawal orders; persons exempt; re-entry after abatement

If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that an imminent danger exists, such representative shall determine the area throughout which such danger exists, and thereupon shall issue forthwith an order requiring the operator of the mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such imminent danger no longer exists.

(b) Violations of mandatory standards not creating an imminent danger; notice to abate violations; failure to comply; withdrawal orders; persons exempt; re-entry after abatement

Except as provided in subsection (i) of this section, if, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard but the violation has not created an imminent danger, he shall issue a notice to the operator or his agent fixing a reasonable time for the abatement of the violation. If, upon the expiration of the period of time as originally fixed or subsequently extended, an authorized representative of the Secretary finds that the violation has not been totally abated, and if he also finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that the violation has been abated.

(c) Substantial violations not creating an imminent danger; prerequisites; notice; additional violations; withdrawal orders; persons exempt; similar subsequent violations; withdrawal orders; abatement of violations

(1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds that there has been a violation of any mandatory health or safety standard, and if he also finds that, while the conditions created by such violation do not cause imminent danger, such violation is of such nature as could signifi-

cantly and substantially contribute to the cause and effect of a mine safety or health hazard, and if he finds such violation to be caused by a unwarrantable failure of such operator to comply with such mandatory health or safety standards, he shall include such finding in any notice given to the operator under this chapter. If, during the same inspection or any subsequent inspection of such mine within ninety days after the issuance of such notice, an authorized representative of the Secretary finds another violation of any mandatory health or safety standard and finds such violation to be also caused by an unwarrantable failure of such operator to so comply, he shall forthwith issue an order requiring the operator to cause all persons in the area affected by such violation, except those persons referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until an authorized representative of the Secretary determines that such violation has been abated.

(2) If a withdrawal order with respect to any area in a mine has been issued pursuant to paragraph (1) of this subsection, a withdrawal order shall promptly be issued by an authorized representative of the Secretary who finds upon any subsequent inspection the existence in such mine of violations similar to those that resulted in the issuance of the withdrawal order under paragraph (1) of this subsection until such time as an inspection of such mine discloses no similar violations. Following an inspection of such mine which discloses no similar violations, the provisions of paragraph (1) of this subsection shall again be applicable to that mine.

(d) Exempt persons

The following persons shall not be required to be withdrawn from, or prohibited from entering, any area of the coal mine subject to an order issued under this section:

(1) any person whose presence in such area is necessary, in the judgment of the operator or an authorized representative of the Secretary, to eliminate the condition described in the order;

(2) any public official whose official duties require him to enter such area;

(3) any representative of the miners in such mine who is, in the judgment of the operator or an authorized representative of the Secretary, qualified to make coal mine examinations or who is accompanied by such a person and whose presence in such area is necessary for the investigation of the conditions described in the order; and (4) any consultant to any of the foregoing.

(e) Requisites of notice

Notices and orders issued pursuant to this section shall contain a detailed description of the conditions or practices which cause and constitute an imminent danger or a violation of any mandatory health or safety standard and, where appropriate, a description of the area of the coal mine from which persons must be withdrawn and prohibited from entering.

(f) Delivery of notice

Each notice or order issued under this section shall be given promptly to the operator of the coal mine or his agent by an authorized representative of the Secretary issuing such notice or order, and all such notices and orders shall be in writing and shall be signed by such representative.

(g) Modification and termination of notice

A notice or order issued pursuant to this section, except an order issued under subsection (h) of this section, may be modified or terminated by an authorized representative of the Secretary.

(h) Reasonable assurance of imminent danger due to nonabatable violations; prerequisites; notice; additional investigations; hearing; findings; withdrawal order; abatement re-hearing; re-entry; applicability of section 554 of title 5

(1) If, upon any inspection of a coal mine, an authorized representative of the Secretary finds (A) that conditions exist therein which have not yet resulted in an imminent danger, (B) that such conditions cannot be effectively abated through the use of existing technology, and (C) that reasonable assurance cannot be provided that the continuance of mining operations under such conditions will not result in an imminent danger, he shall determine the area throughout which such conditions exist, and thereupon issue a notice to the operator of the mine or his agent of such conditions, and shall file a copy thereof, incorporating his findings therein, with the Secretary and with the representative of the miners of such mine. Upon receipt of such copy, the Secretary shall cause such further investigation to be made as he deems appropriate, including an opportunity for the operator or a representative of the miners to present information relating to such notice.

(2) Upon the conclusion of such investigation and an opportunity for a public hearing upon request by any interested party, the Secretary shall make findings of fact, and shall by decision incorporating such findings therein, either cancel the notice issued under this subsection or issue an order requiring the operator of such mine to cause all persons in the area affected, except those persons referred to in subsection (d) of this section, to be withdrawn from, and be prohibited from entering, such area until the Secretary, after a public hearing affording all interested persons an opportunity to present their views, determines that such conditions have been abated. Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5.

(i) Dust concentration exceeding mandatory health standards; prerequisites; notice; reasonable time to abate violations; samples; withdrawal orders; persons exempt; request for government experts; powers of experts

If, based upon samples taken and analyzed and recorded pursuant to section 842(a) of this title, or samples taken during an inspection by an authorized representative of the Secretary, the applicable limit on the concentration of respirable dust required to be maintained under this chapter is exceeded and thereby violated, the Secretary or his authorized representative shall issue a notice fixing a reasonable time for the abatement of the violation. During such time, the operator of the mine shall cause samples described in section 842(a) of this title to be taken of the affected area during each pro-

duction shift. If, upon the expiration of the period of time as originally fixed or subsequently extended, the Secretary or his authorized representative finds that the period of time should not be further extended, he shall find the extent of the area affected by the violation and shall promptly issue an order requiring the operator of such mine or his agent to cause immediately all persons, except those referred to in subsection (d) of this section, to be withdrawn from, and to be prohibited from entering, such area until the Secretary or his authorized representative has reason to believe, based on actions taken by the operator, that such limit will be complied with upon the resumption of production in such mine. As soon as possible after an order is issued, the Secretary, upon request of the operator, shall dispatch to the mine involved a person or team of persons, to the extent such persons are available, who are knowledgeable in the methods and means of controlling and reducing respirable dust. Such persons or team of persons shall remain at the mine involved for such time as they shall deem appropriate to assist the operator in reducing respirable dust concentrations. While at the mine, such persons may require the operator to take such actions as they deem appropriate to insure the health of any person in the coal mine.

(Pub. L. 91-173, title I, § 104, Dec. 30, 1969, 83 Stat. 750.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 815, 816, 819, 820, 842, 863 of this title.

§ 815. Review by Secretary

(a) Applications; requisites; investigations; hearing; effect of application; applicability of section 554 of title 5

(1) An operator issued an order pursuant to the provisions of section 814 of this title, or any representative of miners in any mine affected by such order or by any modification or termination of such order, may apply to the Secretary for review of the order within thirty days of receipt thereof or within thirty days of its modification or termination. An operator issued a notice pursuant to section 814(b) or (i) of this title, or any representative of miners in any mine affected by such notice, may, if he believes that the period of time fixed in such notice for the abatement of the violation is unreasonable, apply to the Secretary for review of the notice within thirty days of the receipt thereof. The applicant shall send a copy of such application to the representative of miners in the affected mine, or the operator, as appropriate. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of the operator or the representative of miners in such mine, to enable the operator and the representative of miners in such mine to present information relating to the issuance and continuance of such order or the modification or termination thereof or to the time fixed in such notice. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

(2) The operator and the representative of the miners shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5.

(b) Findings and orders

Upon receiving the report of such investigation, the Secretary shall make findings of fact, and he shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the order, or the modification or termination of such order, or the notice, complained of and incorporate his findings therein.

(c) Urgency of review

In view of the urgent need for prompt decision of matters submitted to the Secretary under this section, all actions which the Secretary takes under this section shall be taken as promptly as practicable, consistent with adequate consideration of the issues involved.

(d) Temporary relief; prerequisites; limitations

Pending completion of the investigation required by this section, the applicant may file with the Secretary a written request that the Secretary grant temporary relief (1) from any modification or termination of any order, or (2) from any order issued under section 814 of this title, except an order issued under section 814(a) of this title, together with a detailed statement giving reasons for granting such relief. The Secretary may grant such relief, under such conditions as he may prescribe, if—

(1) a hearing has been held in which all parties were given an opportunity to be heard;

(2) the applicant shows that there is substantial likelihood that the findings of the Secretary will be favorable to the applicant; and

(3) such relief will not adversely affect the health and safety of miners in the coal mine.

No temporary relief shall be granted in the case of a notice issued under section 814(b) or (i) of this title.

(Pub. L. 91-173, title I, § 105, Dec. 30, 1969, 83 Stat. 753.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 819 of this title.

§ 816. Judicial review

(a) Review by Court of Appeals, venue, procedure; exhaustion of remedies

Any order or decision issued by the Secretary or the Panel under this chapter, except an order or decision under section 819(a) of this title, shall be subject to judicial review by the United States court of appeals for the circuit in which the affected mine is located, or the United States Court of Appeals for the District of Columbia Circuit, upon the filing in such court within thirty days from the date of such order or decision of a petition by any person aggrieved by the order or decision praying that the order or decision be modified or set aside in whole or in part, except that the court shall not consider such petition unless such person has

exhausted the administrative remedies available under this chapter. A copy of the petition shall forthwith be sent by registered or certified mail to the other party and to the Secretary or the Panel, and thereupon the Secretary or the Panel shall certify and file in such court the record upon which the order or decision complained of was issued, as provided in section 2112 of title 28.

(b) Evidence; conclusiveness of findings; orders

The court shall hear such petition on the record made before the Secretary or the Panel. The findings of the Secretary or the Panel, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision or may remand the proceedings to the Secretary or the Panel for such further action as it may direct.

(c) Temporary relief; prerequisites; limitations

(1) In the case of a proceeding to review any order or decision issued by the Secretary under this chapter, except an order or decision pertaining to an order issued under section 814(a) of this title or an order or decision pertaining to a notice issued under section 814(b) or (l) of this title, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief;

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding; and

(C) such relief will not adversely affect the health and safety of miners in the coal mine.

(2) In the case of a proceeding to review any order or decision issued by the Panel under this chapter, the court may, under such conditions as it may prescribe, grant such temporary relief as it deems appropriate pending final determination of the proceeding if—

(A) all parties to the proceeding have been notified and given an opportunity to be heard on a request for temporary relief; and

(B) the person requesting such relief shows that there is a substantial likelihood that he will prevail on the merits of the final determination of the proceeding.

(d) Review by Supreme Court

The judgment of the court shall be subject to review only by the Supreme Court of the United States upon a writ of certiorari or certification as provided in section 1254 of title 28.

(e) Stay of order or decision of Secretary or Panel

The commencement of a proceeding under this section shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary or the Panel.

(f) Attorneys for Secretary

Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28, attorneys appointed by the Secretary may appear for and represent him in any proceeding instituted under this section.

(Pub. L. 91-173, title I, § 106, Dec. 30, 1969, 83 Stat. 754.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 804, 819, 820, 953 of this title.

§ 817. Posting of notices, orders, and decisions

(a) Maintenance of bulletin board; information posted

At each coal mine there shall be maintained an office with a conspicuous sign designating it as the office of the mine, and a bulletin board at such office or at some conspicuous place near an entrance of the mine, in such manner that notices, orders, and decisions required by law or regulation to be posted on the mine bulletin board may be posted thereon, be easily visible to all persons desiring to read them, and be protected against damage by weather and against unauthorized removal. A copy of any notice, order, or decision required by this subchapter to be given to an operator shall be delivered to the office of the affected mine, and a copy shall be immediately posted on the bulletin board of such mine by the operator or his agent.

(b) Distribution; public inspection

The Secretary shall cause a copy of any notice, order, or decision required by this chapter to be given to an operator to be mailed immediately to a representative of the miners in the affected mine, and to the public official or agency of the State charged with administering State laws, if any, relating to health or safety in such mine. Such notice, order, or decision shall be available for public inspection.

(c) Compliance

In order to insure prompt compliance with any notice, order, or decision issued under this chapter, the authorized representative of the Secretary may deliver such notice, order, or decision to an agent of the operator and such agent shall immediately take appropriate measures to insure compliance with such notice, order, or decision.

(d) Filing of name and address of mines and operators of mines; revision; designation of health and safety officers

Each operator of a coal mine shall file with the Secretary the name and address of such mine and the name and address of the person who controls or operates the mine. Any revisions in such names or addresses shall be promptly filed with the Secretary. Each operator of a coal mine shall designate a responsible official at such mine as the principal officer in charge of health and safety at such mine and such official shall receive a copy of any notice, order, or decision issued under this chapter affecting such mine. In any case, where the coal mine is subject to the control of any person not directly involved in the daily operations of the coal mine, there shall be filed with the Secretary the name and address of such person and the name and address of a principal official of such person who shall have overall responsibility for the conduct of an effective health and safety program at any coal mine subject to the control of such person and such official shall receive a copy of any notice, order, or decision

issued affecting any such mine. The mere designation of a health and safety official under this subsection shall not be construed as making such official subject to any penalty under this chapter.

(Pub. L. 91-173, title I, § 107, Dec. 30, 1969, 83 Stat. 755.)

§ 818. Civil action for relief; jurisdiction and venue; grounds for invocation of remedies; force and effect of orders; representation of Secretary

The Secretary may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a coal mine is located or in which the operator of such mine has his principal office, whenever such operator or his agent (a) violates or fails or refuses to comply with any order or decision issued under this chapter, or (b) interferes with, hinders, or delays the Secretary or his authorized representative, or the Secretary of Health, Education, and Welfare or his authorized representative, in carrying out the provisions of this chapter, or (c) refuses to admit such representatives to the mine, or (d) refuses to permit the inspection of the mine, or the investigation of an accident or occupational disease occurring in, or connected with, such mine, or (e) refuses to furnish any information or report requested by the Secretary or the Secretary of Health, Education, and Welfare in furtherance of the provisions of this chapter, or (f) refuses to permit access to, and copying of, such records as the Secretary or the Secretary of Health, Education, and Welfare determines necessary in carrying out the provisions of this chapter. Each court shall have jurisdiction to provide such relief as may be appropriate. Temporary restraining orders shall be issued in accordance with Rule 65 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. Except as otherwise provided herein, any relief granted by the court to enforce an order under clause (a) of this section shall continue in effect until the completion or final termination of all proceedings for review of such order under this subchapter, unless, prior thereto, the district court granting such relief sets it aside or modifies it. In actions under this section, subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28, attorneys appointed by the Secretary may appear for and represent him. In any action instituted under this section to enforce an order or decision issued by the Secretary after a public hearing in accordance with section 554 of title 5, the findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

(Pub. L. 91-173, title I, § 108, Dec. 30, 1969, 83 Stat. 756.)

REFERENCES IN TEXT

Rule 65 of the Federal Rules of Civil Procedure, referred to in text, is set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 820 of this title.

§ 819. Penalties

(a) Civil penalties for violations of mandatory health and safety standards; hearings; factors determining assessment; findings; applicability of section 554 of title 5; procedures for enforcement

(1) The operator of a coal mine in which a violation occurs of a mandatory health or safety standard or who violates any other provision of this chapter, except the provisions of subchapter IV of this chapter, shall be assessed a civil penalty by the Secretary under paragraph (3) of this subsection which penalty shall not be more than $10,000 for each such violation. Each occurrence of a violation of a mandatory health or safety standard may constitute a separate offense. In determining the amount of the penalty, the Secretary shall consider the operator's history of previous violations, the appropriateness of such penalty to the size of the business of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of a violation.

(2) Any miner who willfully violates the mandatory safety standards relating to smoking or the carrying of smoking materials, matches, or lighters shall be subject to a civil penalty assessed by the Secretary under paragraph (3) of this subsection, which penalty shall not be more than $250 for each occurrence of such violation.

(3) A civil penalty shall be assessed by the Secretary only after the person charged with a violation under this chapter has been given an opportunity for a public hearing and the Secretary has determined, by decision incorporating his findings of fact therein, that a violation did occur, and the amount of the penalty which is warranted, and incorporating, when appropriate, an order therein requiring that the penalty be paid. Where appropriate, the Secretary shall consolidate such hearings with other proceedings under section 815 of this title. Any hearing under this section shall be of record and shall be subject to section 554 of title 5.

(4) If the person against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Secretary shall file a petition for enforcement of such order in any appropriate district court of the United States. The petition shall designate the person against whom the order is sought to be enforced as the respondent. A copy of the petition shall forthwith be sent by registered or certified mail to the respondent and to the representative of the miners in the affected mine or the operator, as the case may be, and thereupon the Secretary shall certify and file in such court the record upon which such order sought to be enforced was issued. The court shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order and decision of the Secretary or it may remand the proceedings to the Secretary for such further action as it may direct. The court shall consider

and determine de novo all relevant issues, except issues of fact which were or could have been litigated in review proceedings before a court of appeals under section 816 of this title, and upon the request of the respondent, such issues of fact which are in dispute shall be submitted to a jury. On the basis of the jury's findings, the court shall determine the amount of the penalty to be imposed. Subject to the direction and control of the Attorney General, as provided in section 507(b) of title 28, attorneys appointed by the Secretary may appear for and represent him in any action to enforce an order assessing civil penalties under this paragraph.

(b) Willful violations or refusal to comply with health and safety standards by operators of mines

Any operator who willfully violates a mandatory health or safety standard, or knowingly violates or fails or refuses to comply with any order issued under section 814 of this title, or any order incorporated in a final decision issued under this subchapter, except an order incorporated in a decision under subsection (a) of this section or section 820(b)(2) of this title, shall, upon conviction, be punished by a fine of not more than $25,000, or by imprisonment for not more than one year, or by both, except that if the conviction is for a violation committed after the first conviction of such operator under this chapter, punishment shall be by a fine of not more than $50,000, or by imprisonment for not more than five years, or by both.

(c) Willful violations or refusal to comply with health and safety standards by corporate operators of mines

Whenever a corporate operator violates a mandatory health or safety standard or knowingly violates or fails or refuses to comply with any order issued under this chapter or any order incorporated in a final decision issued under this chapter, except an order incorporated in a decision issued under subsection (a) of this section or section 820(b)(2) of this title, any director, officer, or agent of such corporation who knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment that may be imposed upon a person under subsections (a) and (b) of this section.

(d) False statements or representations

Whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this chapter or any order or decision issued under this chapter shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

(e) Distribution or sale of noncomplying components

Whoever knowingly distributes, sells, offers for sale, introduces, or delivers in commerce any equipment for use in a coal mine, including, but not limited to, components and accessories of such equipment, which is represented as complying with the provisions of this chapter, or with any specification or regulation of the Secretary applicable to such equipment, and which does not so comply, shall, upon conviction, be subject to the same fine and imprisonment that may be imposed upon a person under subsection (d) of this section.

(Pub. L. 91-173, title I, § 109, Dec. 30, 1969, 83 Stat. 756.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 816, 820 of this title.

§ 820. Claims of idled miners; entitlement; compensation; hearings; discrimination due to enforcement of rights; procedures for redress; penalties

(a) If a coal mine or area of a coal mine is closed by an order issued under section 814 of this title, all miners working during the shift when such order was issued who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than the balance of such shift. If such order is not terminated prior to the next working shift, all miners on that shift who are idled by such order shall be entitled to full compensation by the operator at their regular rates of pay for the period they are idled, but for not more than four hours of such shift. If a coal mine or area of a coal mine is closed by an order issued under section 814 of this title for an unwarrantable failure of the operator to comply with any health or safety standard, all miners who are idled due to such order shall be fully compensated, after all interested parties are given an opportunity for a public hearing on such compensation and after such order is final, by the operator for lost time at their regular rates of pay for such time as the miners are idled by such closing, or for one week, whichever is the lesser. Whenever an operator violates or fails or refuses to comply with any order issued under section 814 of this title, all miners employed at the affected mine who would be withdrawn from, or prevented from entering, such mine or area thereof as a result of such order shall be entitled to full compensation by the operator at their regular rates of pay, in addition to pay received for work performed after such order was issued, for the period beginning when such order was issued and ending when such order is complied with, vacated, or terminated.

(b)(1) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any miner or any authorized representative of miners by reason of the fact that such miner or representative (A) has notified the Secretary or his authorized representative of any alleged violation or danger, (B) has filed, instituted, or caused to be filed or instituted any proceeding under this chapter, or (C) has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this chapter.

(2) Any miner or a representative of miners who believes that he has been discharged or otherwise discriminated against by any person in violation of paragraph (1) of this subsection may, within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such

person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner or representative of miners to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein. Any order issued by the Secretary under this paragraph shall be subject to judicial review in accordance with section 816 of this title. Violations by any person of paragraph (1) of this subsection shall be subject to the provisions of sections 818 and 819(a) of this title.

(3) Whenever an order is issued under this subsection, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

(Pub. L. 91-173, title I, § 110, Dec. 30, 1969, 83 Stat. 758.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 819 of this title.

§ 821. Maintenance of records; investigation of accidents; accessibility; periodic reports to Secretary; publishing of reports; limitations

(a) All accidents, including unintentional roof falls (except in any abandoned panels or in areas which are inaccessible or unsafe for inspections), shall be investigated by the operator or his agent to determine the cause and the means of preventing a recurrence. Records of such accidents, roof falls, and investigations shall be kept and the information shall be made available to the Secretary or his authorized representative and the appropriate State agency. Such records shall be open for inspection by interested persons. Such records shall include man-hours worked and shall be reported for periods determined by the Secretary, but at least annually.

(b) In addition to such records as are specifically required by this chapter, every operator of a coal mine shall establish and maintain such records, make such reports, and provide such information, as the Secretary may reasonably require from time to time to enable him to perform his functions under this chapter. The Secretary is authorized to compile, analyze, and publish, either in summary or detailed form, such reports or information so obtained. Except to the extent otherwise specifically provided by this chapter, all records, information, reports, findings, notices, orders, or decisions required or issued pursuant to or under this chapter may be published from time to time, may be released to any interested person, and shall be made available for public inspection.

(Pub. L. 91-173, title I, § 111, Dec. 30, 1969, 83 Stat. 759.)

SUBCHAPTER II—INTERIM MANDATORY HEALTH STANDARDS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 878, 938, 954, 960 of this title.

§ 841. Mandatory health standards for underground mines; enforcement; review; purpose

(a) The provisions of sections 842 through 846 of this title and the applicable provisions of section 878 of this title shall be interim mandatory health standards applicable to all underground coal mines until superseded in whole or in part by improved mandatory health standards promulgated by the Secretary under the provisions of section 811 of this title, and shall be enforced in the same manner and to the same extent as any mandatory health standard promulgated under the provisions of section 811 of this title. Any orders issued in the enforcement of the interim standards set forth in this subchapter shall be subject to review as provided in subchapter I of this chapter.

(b) Among other things, it is the purpose of this subchapter to provide, to the greatest extent possible, that the working conditions in each underground coal mine are sufficiently free of respirable dust concentrations in the mine atmosphere to permit each miner the opportunity to work underground during the period of his entire adult working life without incurring any disability from pneumoconiosis or any other occupation-related disease during or at the end of such period.

(Pub. L. 91-173, title II, § 201, Dec. 30, 1969, 83 Stat. 760.)

EFFECTIVE DATE

Subchapter operative six months after Dec. 30, 1969, except to the extent an earlier date is specifically provided for in Pub. L. 91-173, see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

§ 842. Dust concentration and respiratory equipment

(a) Samples; procedures; transmittal; notice of excess concentration; periodic reports to Secretary; contents

Each operator of a coal mine shall take accurate samples of the amount of respirable dust in the mine atmosphere to which each miner in the active workings of such mine is exposed. Such samples shall be taken by any device approved by the Secretary and the Secretary of Health, Education, and Welfare and in accordance with such methods, at such locations, at such intervals, and in such manners as the Secretaries shall prescribe in the Federal Register within sixty days from December 30, 1969 and

from time to time thereafter. Such samples shall be transmitted to the Secretary in a manner established by him, and analyzed and recorded by him in a manner that will assure application of the provisions of section 814(i) of this title when the applicable limit on the concentration of respirable dust required to be maintained under this section is exceeded. The results of such samples shall also be made available to the operator. Each operator shall report and certify to the Secretary at such intervals as the Secretary may require as to the conditions in the active workings of the coal mine, including, but not limited to, the average number of working hours worked during each shift, the quantity and velocity of air regularly reaching the working faces, the method of mining, the amount and pressure of the water, if any, reaching the working faces, and the number, location, and type of sprays, if any, used.

(b) Standards; noncompliance permit; renewal; procedures; limitations; extension period

Except as otherwise provided in this subsection—

(1) Effective on the operative date of this subchapter, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 3.0 milligrams of respirable dust per cubic meter of air.

(2) Effective three years after December 30, 1969, each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of such mine is exposed at or below 2.0 milligrams of respirable dust per cubic meter of air.

(3) Any operator who determines that he will be unable, using available technology, to comply with the provisions of paragraph (1) of this subsection, or the provisions of paragraph (2) of this subsection, as appropriate, may file with the Panel, no later than sixty days prior to the effective date of the applicable respirable dust standard established by such paragraphs, an application for a permit for noncompliance. If, in the case of an application for a permit for noncompliance with the 3.0 milligram standard established by paragraph (1) of this subsection, the application satisfies the requirements of subsection (c) of this section, the Panel shall issue a permit for noncompliance to the operator. If, in the case of an application for a permit for noncompliance with the 2.0 milligram standard established by paragraph (2) of this subsection, the application satisfies the requirements of subsection (c) of this section and the Panel determines that the applicant will be unable to comply with such standard, the Panel shall issue to the operator a permit for noncompliance.

(4) In any case in which an operator, who has been issued a permit (including a renewal permit) for noncompliance under this section, determines, not more than ninety days prior to the expiration date of such permit, that he still is unable to comply with the standard established by paragraph (1) of this subsection or the standard established by paragraph (2) of this subsection, as appropriate, he may file with the Panel an application for renewal of the permit. Upon receipt of such application, the Panel, if it determines, after all interested persons have been notified and given an opportunity for a public hearing under section 804 of this title, that the application is in compliance with the provisions of subsection (c) of this section, and that the applicant will be unable to comply with such standard, may renew the permit.

(5) Any such permit or renewal thereof so issued shall be in effect for a period not to exceed one year and shall entitle the permittee during such period to maintain continuously the average concentration of respirable dust in the mine atmosphere during each shift in the working places of such mine to which the permit applies at a level specified by the Panel, which shall be at the lowest level which the application shows the conditions, technology applicable to such mine, and other available and effective control techniques and methods will permit, but in no event shall such level exceed 4.5 milligrams of dust per cubic meter of air during the period when the 3.0 milligram standard is in effect, or 3.0 milligrams of dust per cubic meter of air during the period when the 2.0 milligram standard is in effect.

(6) No permit or renewal thereof for noncompliance shall entitle any operator to an extension of time beyond eighteen months from December 30, 1969 to comply with the 3.0 milligram standard established by paragraph (1) of this subsection, or beyond seventy-two months from December 30, 1969 to comply with the 2.0 milligram standard established by paragraph (2) of this subsection.

(c) Applications for noncompliance; contents

Any application for an initial or renewal permit made pursuant to this section shall contain—

(1) a representation by the applicant and the engineer conducting the survey referred to in paragraph (2) of this subsection that the applicant is unable to comply with the standard applicable under subsection (b)(1) or (b)(2) of this section at specified working places because the technology for reducing the concentration of respirable dust at such places is not available, or because of the lack of other effective control techniques or methods, or because of any combination of such reasons;

(2) an identification of the working places in such mine for which the permit is requested; the results of an engineering survey by a certified engineer of the respirable dust conditions of each working place of the mine with respect to which such application is filed and the ability to reduce such dust to the level required to be maintained in such place under this section; a description of the ventilation system of the mine and its capacity; the quantity and velocity of air regularly reaching the working faces; the method of mining; the amount and pressure of the water, if any, reaching the working faces; the number, location, and type of sprays, if any; action taken to reduce such dust; and such

other information as the Panel may require; and

(3) statements by the applicant and the engineer conducting such survey, of the means and methods to be employed to achieve compliance with the applicable standard, the progress made toward achieving compliance, and an estimate of when compliance can be achieved.

(d) Promulgation of new standards; procedures

Beginning six months after the operative date of this subchapter and from time to time thereafter, the Secretary of Health, Education, and Welfare shall establish, in accordance with the provisions of section 811 of this title, a schedule reducing the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings is exposed below the levels established in this section to a level of personal exposure which will prevent new incidences of respiratory disease and the further development of such disease in any person. Such schedule shall specify the minimum time necessary to achieve such levels taking into consideration present and future advancements in technology to reach these levels.

(e) Concentration of respirable dust; MRE instruments

References to concentrations of respirable dust in this subchapter means the average concentration of respirable dust if measured with an MRE instrument or such equivalent concentrations if measured with another device approved by the Secretary and the Secretary of Health, Education, and Welfare. As used in this subchapter, the term "MRE instrument" means the gravimetric dust sampler with four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

(f) Average concentration

For the purpose of this subchapter, the term "average concentration" means a determination which accurately represents the atmospheric conditions with regard to respirable dust to which each miner in the active workings of a mine is exposed (1) as measured, during the 18 month period following December 30, 1969, over a number of continuous production shifts to be determined by the Secretary and the Secretary of Health, Education, and Welfare, and (2) as measured thereafter, over a single shift only, unless the Secretary and the Secretary of Health, Education, and Welfare find, in accordance with the provisions of section 811 of this title, that such single shift measurement will not, after applying valid statistical techniques to such measurement, accurately represent such atmospheric conditions during such shift.

(g) Compliance inspections

The Secretary shall cause to be made such frequent spot inspections as he deems appropriate of the active workings of coal mines for the purpose of obtaining compliance with the provisions of this subchapter.

(h) Maintenance of respiratory equipment; substitutes for environmental controls

Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be made available to all persons whenever exposed to concentrations of respirable dust in excess of the levels required to be maintained under this chapter. Use of respirators shall not be substituted for environmental control measures in the active workings. Each operator shall maintain a supply of respiratory equipment adequate to deal with occurrences of concentrations of respirable dust in the mine atmosphere in excess of the levels required to be maintained under this chapter.

(Pub. L. 91-173, title II, § 202, Dec. 30, 1969, 83 Stat. 760.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsecs. (b)(1) and (d), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 814, 841 of this title.

§ 843. Medical examinations

(a) Chest roentgenogram; availability; periodic intervals; other tests; transmittal of results; advice of rights

The operator of a coal mine shall cooperate with the Secretary of Health, Education, and Welfare in making available to each miner working in a coal mine the opportunity to have a chest roentgenogram within eighteen months after December 30, 1969, a second chest roentgenogram within three years thereafter, and subsequent chest roentgenograms at such intervals thereafter of not to exceed five years as the Secretary of Health, Education, and Welfare prescribes. Each worker who begins work in a coal mine for the first time shall be given, as soon as possible after commencement of his employment, and again three years later if he is still engaged in coal mining, a chest roentgenogram; and in the event the second such chest roentgenogram shows evidence of the development of pneumoconiosis the worker shall be given, two years later if he is still engaged in coal mining, an additional chest roentgenogram. All chest roentgenograms shall be given in accordance with specifications prescribed by the Secretary of Health, Education, and Welfare and shall be supplemented by such other tests as the Secretary of Health, Education, and Welfare deems necessary. The films shall be read and classified in a manner to be prescribed by the Secretary of Health, Education, and Welfare, and the results of each reading on each such person and of such tests shall be submitted to the Secretary and to the Secretary of Health, Education, and Welfare, and, at the request of the miner, to his physician. The Secretary shall also submit such results to such miner and advise him of his rights under this chapter related thereto. Such specifications, readings, classifications, and tests shall, to the greatest degree possible, be uniform for all coal mines and miners in such mines.

(b) Evidence of pneumoconiosis; option to transfer; wages

(1) On and after the operative date of this subchapter, any miner who, in the judgment of the Secretary of Health, Education, and Wel-

fare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring from his position to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 2.0 milligrams of dust per cubic meter of air.

(2) Effective three years after December 30, 1969, any miner who, in the judgment of the Secretary of Health, Education, and Welfare based upon such reading or other medical examinations, shows evidence of the development of pneumoconiosis shall be afforded the option of transferring from his position to another position in any area of the mine, for such period or periods as may be necessary to prevent further development of such disease, where the concentration of respirable dust in the mine atmosphere is not more than 1.0 milligrams of dust per cubic meter of air, or if such level is not attainable in such mine, to a position in such mine where the concentration of respirable dust is the lowest attainable below 2.0 milligrams per cubic meter of air.

(3) Any miner so transferred shall receive compensation for such work at not less than the regular rate of pay received by him immediately prior to his transfer.

(c) Costs of examinations and tests

No payment may be required of any miner in connection with any examination or test given him pursuant to this subchapter. Where such examinations or tests cannot be given, due to the lack of adequate medical or other necessary facilities or personnel, in the locality where the miner resides, arrangements shall be made to have them conducted, in accordance with the provisions of this subchapter, in such locality by the Secretary of Health, Education, and Welfare, or by an appropriate person, agency, or institution, public or private, under an agreement or arrangement between the Secretary of Health, Education, and Welfare and such person, agency, or institution. The operator of the mine shall reimburse the Secretary of Health, Education, and Welfare, or such person, agency, or institution, as the case may be, for the cost of conducting each examination or test made, in accordance with this subchapter, and shall pay whatever other costs are necessary to enable the miner to take such examinations or tests.

(d) Autopsies

If the death of any active miner occurs in any coal mine, or if the death of any active or inactive miner occurs in any other place, the Secretary of Health, Education, and Welfare is authorized to provide for an autopsy to be performed on such miner, with the consent of his surviving widow or, if he has no such widow, then with the consent of his surviving next of kin. The results of such autopsy shall be submitted to the Secretary of Health, Education, and Welfare and, with the consent of such survivor, to the miner's physician or other interested person. Such autopsy shall be paid for by the Secretary of Health, Education, and Welfare.

(Pub. L. 91-173, title II, § 203, Dec. 30, 1969, 83 Stat. 763.)

REFERENCES IN TEXT

For operative date of this subchapter, referred to in subsec. (b)(1), see section 509 of Pub. L. 91-173, set out as and Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

§ 844. Rock dust and gas hazards; controls

The dust resulting from drilling in rock shall be controlled by the use of permissible dust collectors, or by water or water with a wetting agent, or by ventilation, or by any other method or device approved by the Secretary which is at least as effective in controlling such dust. Respiratory equipment approved by the Secretary and the Secretary of Health, Education, and Welfare shall be provided persons exposed for short periods to inhalation hazards from gas, dusts, fumes, or mist. When the exposure is for prolonged periods, other measures to protect such persons or to reduce the hazard shall be taken.

(Pub. L. 91-173, title II, § 204, Dec. 30, 1969, 83 Stat. 764.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

§ 845. Dust standards in presence of quartz

In coal mining operations where the concentration of respirable dust in the mine atmosphere of any working place contains more than 5 per centum quartz, the Secretary of Health, Education, and Welfare shall prescribe an appropriate formula for determining the applicable respirable dust standard under this subchapter for such working place and the Secretary shall apply such formula in carrying out his duties under this subchapter.

(Pub. L. 91-173, title II, § 205, Dec. 30, 1969, 83 Stat. 765.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

§ 846. Noise standards; promulgation of new standards; tests; procedures; protective devices

On and after the operative date of this subchapter, the standards on noise prescribed under the Walsh-Healey Public Contracts Act, as amended [41 U.S.C. 35 et seq.], in effect October 1, 1969, shall be applicable to each coal mine and each operator of such mine shall comply with them. Within six months after December 30, 1969, the Secretary of Health, Education, and Welfare shall establish, and the Secretary shall publish, as provided in section 811 of this title, proposed mandatory health standards establishing maximum noise exposure levels for all underground coal mines. Beginning six months after the operative date of this subchapter, and at intervals of at least every six months thereafter, the operator of each coal mine shall conduct, in a manner prescribed by the Secretary of Health, Education, and Welfare, tests by a qualified person of the

noise level at the mine and report and certify the results to the Secretary and the Secretary of Health, Education, and Welfare. In meeting such standard under this section, the operator shall not require the use of any protective device or system, including personal devices, which the Secretary or his authorized representative finds to be hazardous or cause a hazard to the miners in such mine.

(Pub. L. 91-173, title II, § 206, Dec. 30, 1969, 83 Stat. 765.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in text, see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

The Walsh-Healey Public Contracts Act, as amended, referred to in text, is act June 30, 1936, ch. 821, 49 Stat. 2036, as amended, which is classified generally to sections 35 et seq. of Title 41, Public Contracts. For complete classification of this Act to the Code, see Short Title note set out under section 35 of Title 41 and Tables volume. See also section 262 of Title 29.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 841 of this title.

SUBCHAPTER III—INTERIM MANDATORY SAFETY STANDARDS FOR UNDERGROUND COAL MINES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 802, 938, 960 of this title.

§ 861. Mandatory safety standards for underground mines

(a) Coverage; enforcement; review

The provisions of sections 862 through 878 of this title shall be interim mandatory safety standards applicable to all underground coal mines until superseded in whole or in part by improved mandatory safety standards promulgated by the Secretary under the provisions of section 811 of this title, and shall be enforced in the same manner and to the same extent as any mandatory safety standard promulgated under section 811 of this title. Any orders issued in the enforcement of the interim standards set forth in this subchapter shall be subject to review as provided in subchapter I of this chapter.

(b) Purpose; initiation of studies and research

The purpose of this subchapter is to provide for the immediate application of mandatory safety standards developed on the basis of experience and advances in technology and to prevent newly created hazards resulting from new technology in coal mining. The Secretary shall immediately initiate studies, investigations, and research to further upgrade such standards and to develop and promulgate new and improved standards promptly that will provide increased protection to the miners, particularly in connection with hazards from trolley wires, trolley feeder wires, and signal wires, the splicing and use of trailing cables, and in connection with improvements in vulcanizing of electric conductors, improvement in roof control measures, methane drainage in advance of mining, improved methods of measuring methane and other explosive gases and oxygen concentrations, and the use of improved underground equipment and other sources of power for such equipment.

(c) Modification of standards; notice; investigations; hearings; findings; applicability of section 554 of title 5

Upon petition by the operator or the representative of miners, the Secretary may modify the application of any mandatory safety standard to a mine if the Secretary determines that an alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. Upon receipt of such petition the Secretary shall publish notice thereof and give notice to the operator or the representative of miners in the affected mine, as appropriate, and shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing, at the request of such operator or representative or other interested party, to enable the operator and the representative of miners in such mine or other interested party to present information relating to the modification of such standard. The Secretary shall issue a decision incorporating his findings of fact herein, and send a copy thereof to the operator or the representative of the miners, as appropriate. Any such hearing shall be of record and shall be subject to section 554 of title 5.

(d) Applicability of section 553 of title 5; granting of exceptions; findings

In any case where the provisions of sections 862 to 878, inclusive, of this title provide that certain actions, conditions, or requirements shall be carried out as prescribed by the Secretary, or the Secretary of Health, Education, and Welfare, as appropriate, the provisions of section 553 of title 5 shall apply unless either Secretary otherwise provides. Before granting any exception to a mandatory safety standard as authorized by this subchapter, the findings of the Secretary or his authorized representative shall be made public and shall be available to the representative of the miners at the affected coal mine.

(Pub. L. 91-173, title III, § 301, Dec. 30, 1969, 83 Stat. 765.)

EFFECTIVE DATE

Subchapter operative 90 days after Dec. 30, 1969, except to the extent an earlier date is specifically provided for in Pub. L. 91-173, see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 951, 958 of this title.

§ 862. Roof support

(a) Roof control plan; contents; review; availability

Each operator shall undertake to carry out on a continuing basis a program to improve the roof control system of each coal mine and the means and measures to accomplish such system. The roof and ribs of all active under-

ground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revisions thereof suitable to the roof conditions and mining system of each coal mine and approved by the Secretary shall be adopted and set out in printed form within sixty days after the operative date of this subchapter. The plan shall show the type of support and spacing approved by the Secretary. Such plan shall be reviewed periodically, at least every six months by the Secretary, taking into consideration any falls of roof or ribs or inadequacy of support of roof or ribs. No person shall proceed beyond the last permanent support unless adequate temporary support is provided or unless such temporary support is not required under the approved roof control plan and the absence of such support will not pose a hazard to the miners. A copy of the plan shall be furnished the Secretary or his authorized representative and shall be available to the miners and their representatives.

(b) Creation of dangers by roof falls

The method of mining followed in any coal mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(c) Location and supply of roof support material; safety devices for roof work.

The operator, in accordance with the approved plan, shall provide at or near each working face and at such other locations in the coal mine as the Secretary may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof boltholes are being drilled, roof bolts are being installed, and in such other circumstances as may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(d) Roof bolts

When installation of roof bolts is permitted, such roof bolts shall be tested in accordance with the approved roof control plan.

(e) Recovery of roof bolts

Roof bolts shall not be recovered where complete extractions of pillars are attempted, where adjacent to clay veins, or at the locations of other irregularities, whether natural or otherwise, that induce abnormal hazards. Where roof bolt recovery is permitted, it shall be conducted only in accordance with methods prescribed in the approved roof control plan, and shall be conducted by experienced miners and only where adequate temporary support is provided.

(f) Safety inspections; correction of dangerous conditions

Where miners are exposed to danger from falls of roof, face, and ribs the operator shall examine and test the roof, face, and ribs before any work or machine is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

(Pub. L. 91-173, title III, § 302, Dec. 30, 1969, 83 Stat. 766.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsec. (a), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 863. Ventilation

(a) Equipment; approval; daily examinations

All coal mines shall be ventilated by mechanical ventilation equipment installed and operated in a manner approved by an authorized representative of the Secretary and such equipment shall be examined daily and a record shall be kept of such examination.

(b) Standards for air in work areas

All active workings shall be ventilated by a current of air containing not less than 19.5 volume per centum of oxygen, not more than 0.5 volume per centum of carbon dioxide, and no harmful quantities of other noxious or poisonous gases; and the volume and velocity of the current of air shall be sufficient to dilute, render harmless, and to carry away, flammable, explosive, noxious, and harmful gases, and dust, and smoke and explosive fumes. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms shall be nine thousand cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line shall be nine thousand cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face shall be three thousand cubic feet a minute. Within three months after the operative date of this subchapter, the Secretary shall prescribe the minimum velocity and quantity of air reaching each working face of each coal mine in order to render harmless and carry away methane and other explosive gases and to reduce the level of respirable dust to the lowest attainable level. The authorized representative of the Secretary may require in any coal mine a greater quantity and velocity of air when he finds it necessary to protect the health or safety of miners. Within one year after the operative date of this subchapter, the Secretary or his authorized representative shall prescribe the maximum respirable dust level in the intake aircourses in each coal mine in order to reduce such level to the lowest attainable level. In robbing areas of anthracite mines, where the air currents cannot be controlled and measurements of the air cannot be obtained, the air shall have perceptible movement.

(c) Line brattice; functions; exceptions; repairs; flame resistant material

(1) Properly installed and adequately maintained line brattice or other approved devices shall be continuously used from the last open crosscut of an entry or room of each working

section to provide adequate ventilation to the working faces for the miners and to remove flammable, explosive, and noxious gases, dust, and explosive fumes, unless the Secretary or his authorized representative permits an exception to this requirement, where such exception will not pose a hazard to the miners. When damaged by falls or otherwise, such line brattice or other devices shall be repaired immediately.

(2) The space between the line brattice or other approved device and the rib shall be large enough to permit the flow of a sufficient volume and velocity of air to keep the working face clear of flammable, explosive, and noxious gases, dust, and explosive fumes.

(3) Brattice cloth used underground shall be of flame-resistant material.

(d) Pre-shift examinations and tests; scope; violations of mandatory standards; notification; posting of "DANGER" signs; restriction of entry; records; re-entry

(1) Within three hours immediately preceding the beginning of any shift, and before any miner in such shift enters the active workings of a coal mine, certified persons designated by the operator of the mine shall examine such workings and any other underground area of the mine designated by the Secretary or his authorized representative. Each such examiner shall examine every working section in such workings and shall make tests in each such working section for accumulations of methane with means approved by the Secretary for detecting methane and shall make tests for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary; examine seals and doors to determine whether they are functioning properly; examine and test the roof, face, and rib conditions in such working section; examine active roadways, travelways, and belt conveyors on which men are carried, approaches to abandoned areas, and accessible falls in such section for hazards; test by means of an anemometer or other device approved by the Secretary to determine whether the air in each split is traveling in its proper course and in normal volume and velocity; and examine for such other hazards and violations of the mandatory health or safety standards, as an authorized representative of the Secretary may from time to time require. Belt conveyors on which coal is carried shall be examined after each coal-producing shift has begun. Such mine examiner shall place his initials and the date and time at all places he examines. If such mine examiner finds a condition which constitutes a violation of a mandatory health or safety standard or any condition which is hazardous to persons who may enter or be in such area, he shall indicate such hazardous place by posting a "DANGER" sign conspiciously at all points which persons entering such hazardous place would be required to pass, and shall notify the operator of the mine. No person, other than an authorized representative of the Secretary or a State mine inspector or persons authorized by the operator to enter such place for the purpose of eliminating the hazardous condition therein, shall enter such place while such sign is so posted. Upon completing his examination, such mine examiner shall report the results of his examination to a person, designated by the operator to receive such reports at a designated station on the surface of the mine, before other persons enter the underground areas of such mine to work in such shift. Each such mine examiner shall also record the results of his examination with ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(2) No person (other than certified persons designated under this subsection) shall enter any underground area, except during any shift, unless an examination of such area as prescribed in this subsection has been made within eight hours immediately preceding his entrance into such area.

(e) Daily examinations and tests; scope; imminent danger; withdrawal of persons; abatement of danger

At least once during each coal-producing shift, or more often if necessary for safety, each working section shall be examined for hazardous conditions by certified persons designated by the operator to do so. Any such condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 814(d) of this title, until the danger is abated. Such examination shall include tests for methane with a means approved by the Secretary for detecting methane and for oxygen deficiency with a permissible flame safety lamp or other means approved by the Secretary.

(f) Weekly examination for hazardous conditions; scope; notification; repairs; imminent danger; withdrawal of persons; abatement; records

In addition to the pre-shift and daily examinations required by this section, examination for hazardous conditions, including tests for methane, and for compliance with the mandatory health or safety standards, shall be made at least once each week by a certified person designated by the operator in the return of each split of air where it enters the main return, on pillar falls, at seals, in the main return, at least one entry of each intake and return aircourse in its entirety, idle workings, and, insofar as safety considerations permit, abandoned areas. Such weekly examination need not be made during any week in which the mine is idle for the entire week, except that such examination shall be made before any other miner returns to the mine. The person making such examinations and tests shall place his initials and the date and time at the places examined, and if any hazardous condition is found, such condition shall be reported to the operator promptly. Any hazardous condition shall be corrected immediately. If such condition creates an imminent danger, the operator shall withdraw all persons from the area affected by such condition to a safe area, except those persons referred to in section 814(d) of this title, until such danger is abated. A record

of these examinations, tests, and actions taken shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(g) Weekly ventilation examinations; scope; records

At least once each week, a qualified person shall measure the volume of air entering the main intakes and leaving the main returns, the volume passing through the last open crosscut in any pair or set of developing entries and the last open crosscut in any pair or set of rooms, the volume and, when the Secretary so prescribes, the velocity reaching each working face, the volume being delivered to the intake end of each pillar line, and the volume at the intake and return of each split of air. A record of such measurements shall be recorded in ink or indelible pencil in a book approved by the Secretary kept for such purpose in an area on the surface of the coal mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and the record shall be open for inspection by interested persons.

(h) Methane examinations at working place; periodic intervals; standards; procedures for different air contents of methane

(1) At the start of each shift, tests for methane shall be made at each working place immediately before electrically operated equipment is energized. Such tests shall be made by qualified persons. If 1.0 volume per centum or more of methane is detected, electrical equipment shall not be energized, taken into, or operated in, such working place until the air therein contains less than 1.0 volume per centum of methane. Examinations for methane shall be made during the operation of such equipment at intervals of not more than twenty minutes during each shift, unless more frequent examinations are required by an authorized representative of the Secretary. In conducting such tests, such person shall use means approved by the Secretary for detecting methane.

(2) If at any time the air at any working place, when tested at a point not less than twelve inches from the roof, face, or rib, contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in such mine so that such air shall contain less than 1.0 volume per centum of methane. While such changes or adjustments are underway and until they have been achieved, power to electric face equipment located in such place shall be cut off, no other work shall be permitted in such place, and due precautions shall be carried out under the direction of the operator or his agent so as not to endanger other areas of the mine. If at any time such air contains 1.5 volume per centum or more of methane, all persons, except those referred to in section 814(d) of this title, shall be withdrawn from the area of the mine endangered thereby to a safe area, and all electric power shall be cut off from the endangered area of the mine, until the air in such working place shall contain less than 1.0 volume per centum of methane.

(i) Methane examination of air returning from working section; periodic intervals; standards; procedures for different air contents; virgin territory

(1) If, when tested, a split of air returning from any working section contains 1.0 volume per centum or more of methane, changes or adjustments shall be made at once in the ventilation in the mine so that such returning air shall contain less than 1.0 volume per centum of methane. Tests under this paragraph and paragraph (2) of this subsection shall be made at four-hour intervals during each shift by a qualified person designated by the operator of the mine. In making such tests, such person shall use means approved by the Secretary for detecting methane.

(2) If, when tested, a split of air returning from any working section contains 1.5 volume per centum or more of methane, all persons, except those persons referred to in section 814(d) of this title, shall be withdrawn from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area of the mine, until the air in such split shall contain less than 1.0 volume per centum of methane.

(3) In virgin territory, if the quantity of air in a split ventilating the active workings in such territory equals or exceeds twice the minimum volume of air prescribed in subsection (b) of this section for the last open crosscut, if the air in the split returning from such workings does not pass over trolley wires or trolley feeder wires, and if a certified person designated by the operator is continually testing the methane content of the air in such split during mining operations in such workings, it shall be necessary to withdraw all persons, except those referred to in section 814(d) of this title, from the area of the mine endangered thereby to a safe area and all electric power shall be cut off from the endangered area only when the air returning from such workings contains 2.0 volume per centum or more of methane.

(j) Abandoned area air; pre-shift examination

Air which has passed by an opening of any abandoned area shall not be used to ventilate any working place in the coal mine if such air contains 0.25 volume per centum or more of methane. Examinations of such air shall be made during the pre-shift examination required by subsection (d) of this section. In making such tests, a certified person designated by the operator shall use means approved by the Secretary for detecting methane. For the purposes of this subsection, an area within a panel shall not be deemed to be abandoned until such panel is abandoned.

(k) Abandoned area air; inaccessible or unsafe for inspection; air from where pillars have been removed

Air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection shall not be used to ventilate any working place in any mine. No air which has been used to ventilate an area from which the pillars have been removed shall be used to ventilate any working place in a mine, except that such air, if it does not contain 0.25 volume per centum or more of methane, may be used to ventilate enough advancing working places im-

mediately adjacent to the line of retreat to maintain an orderly sequence of pillar recovery on a set of entries.

(l) Methane monitors; required equipment; maintenance; warnings; deenergizing of equipment

The Secretary or his authorized representative shall require, as an additional device for detecting concentrations of methane, that a methane monitor, approved as reliable by the Secretary after the operative date of this subchapter, be installed, when available, on any electric face cutting equipment, continuous miner, longwall face equipment, and loading machine, except that no monitor shall be required to be installed on any such equipment prior to the date on which such equipment is required to be permissible under section 865(a) of this title. When installed on any such equipment, such monitor shall be kept operative and properly maintained and frequently tested as prescribed by the Secretary. The sensing device of such monitor shall be installed as close to the working face as practicable. Such monitor shall be set to deenergize automatically such equipment when such monitor is not operating properly and to give a warning automatically when the concentration of methane reaches a maximum percentage determined by an authorized representative of the Secretary which shall not be more than 1.0 volume per centum of methane. An authorized representative of the Secretary shall require such monitor to deenergize automatically equipment on which it is installed when the concentration of methane reaches a maximum percentage determined by such representative which shall not be more than 2.0 volume per centum of methane.

(m) Idle area inspections; authorized inspectors

Idle and abandoned areas shall be inspected for methane and for oxygen deficiency and other dangerous conditions by a certified person with means approved by the Secretary as soon as possible but not more than three hours before other persons are permitted to enter or work in such areas. Persons, such as pumpmen, who are required regularly to enter such areas in the performance of their duties, and who are trained and qualified in the use of means approved by the Secretary for detecting methane and in the use of a permissible flame safety lamp or other means approved by the Secretary for detecting oxygen deficiency are authorized to make such examinations for themselves, and each such person shall be properly equipped and shall make such examinations upon entering any such area.

(n) Intentional roof falls; prior inspections; safeguards

Immediately before an intentional roof fall is made, pillar workings shall be examined by a qualified person designated by the operator to ascertain whether methane is present. Such person shall use means approved by the Secretary for detecting methane. If in such examination methane is found in amounts of 1.0 volume per centum or more, such roof fall shall not be made until changes or adjustments are made in the ventilation so that the air shall contain less than 1.0 volume per centum of methane.

(o) Methane and dust control plans; contents

A ventilation system and methane and dust control plan and revisions thereof suitable to the conditions and the mining system of the coal mine and approved by the Secretary shall be adopted by the operator and set out in printed form within ninety days after the operative date of this subchapter. The plan shall show the type and location of mechanical ventilation equipment installed and operated in the mine, such additional or improved equipment as the Secretary may require, the quantity and velocity of air reaching each working face, and such other information as the Secretary may require. Such plan shall be reviewed by the operator and the Secretary at least every six months.

(p) Devices for detection of methane and oxygen deficiency; maintenance

Each operator shall provide for the proper maintenance and care of the permissible flame safety lamp or any other approved device for detecting methane and oxygen deficiency by a person trained in such maintenance, and, before each shift, care shall be taken to insure that such lamp or other device is in a permissible condition.

(q) Pillar recovery; areas without bleeder systems

Where areas are being pillared on the operative date of this subchapter without bleeder entries, or without bleeder systems or an equivalent means, pillar recovery may be completed in the area, to the extent approved by an authorized representative of the Secretary, if the edges of pillar lines adjacent to active workings are ventilated with sufficient air to keep the air in open areas along the pillar lines below 1.0 volume per centum of methane.

(r) Overcast and undercast intake air split requirements; time extension

Each mechanized mining section shall be ventilated with a separate split of intake air directed by overcasts, undercasts, or the equivalent, except an extension of time, not in excess of nine months, may be permitted by the Secretary, under such conditions as he may prescribe, whenever he determines that this subsection cannot be complied with on the operative date of this subchapter.

(s) Blasting; prior and subsequent examinations for methane

In all underground areas of a coal mine, immediately before firing each shot or group of multiple shots and after blasting is completed, examinations for methane shall be made by a qualified person with means approved by the Secretary for detecting methane. If methane is found in amounts of 1.0 volume per centum or more, changes or adjustments shall be made at once in the ventilation so that the air shall contain less than 1.0 volume per centum of methane. No shots shall be fired until the air contains less than 1.0 volume per centum of methane.

(t) Mine fan stop plans; requisites

Each operator shall adopt a plan within sixty days after the operative date of this subchapter which shall provide that when any mine fan stops, immediate action shall be taken by the operator or his agent (1) to withdraw all per-

sons from the working sections, (2) to cut off the power in the mine in a timely manner, (3) to provide for restoration of power and resumption of work if ventilation is restored within a reasonable period as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of 1.0 volume per centum or more exists therein, and (4) to provide for withdrawal of all persons from the mine if ventilation cannot be restored within such reasonable time. The plan and revisions thereof approved by the Secretary shall be set out in printed form and a copy shall be furnished to the Secretary or his authorized representative.

(u) Modifications affecting main air current or any split; withdrawal of personnel; removal of power

Changes in ventilation which materially affect the main air current or any split thereof and which may affect the safety of persons in the coal mine shall be made only when the mine is idle. Only those persons engaged in making such changes shall be permitted in the mine during the change. Power shall be removed from the areas affected by the change before work starts to make the change and shall not be restored until the effect of the change has been ascertained and the affected areas determined to be safe by a certified person.

(v) Reading and countersigning of daily and weekly reports; foreman; superintendent

The mine foreman shall read and countersign promptly the daily reports of the pre-shift examiner and assistant mine foremen, and he shall read and countersign promptly the weekly report covering the examinations for hazardous conditions. Where such reports disclose hazardous conditions, they shall be corrected promptly. If such conditions create an imminent danger, the operator shall withdraw all persons from, or prevent any person from entering, as the case may be, the area affected by such conditions, except those persons referred to in section 814(d) of this title, until such danger is abated. The mine superintendent or assistant superintendent of the mine shall also read and countersign the daily and weekly reports of such persons.

(w) Daily mine condition reports; requisites; signatures

Each day, the mine foreman and each of his assistants shall enter plainly and sign with ink or indelible pencil in a book approved by the Secretary provided for that purpose a report of the condition of the mine or portion thereof under his supervision, which report shall state clearly the location and nature of any hazardous condition observed by him or reported to him during the day and what action was taken to remedy such condition. Such book shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard, and shall be open for inspection by interested persons.

(x) Reopening of abandoned or declared inactive mine; notification; inspection

Before a coal mine is reopened after having been abandoned or declared inactive by the operator, the Secretary shall be notified, and an inspection shall be made of the entire mine by an authorized representative of the Secretary before mining operations commence.

(y) Separation of intake and return aircourses from belt haulage entries; standards

(1) In any coal mine opened after the operative date of this subchapter, the entries used as intake and return aircourses shall be separated from belt haulage entries, and each operator of such mine shall limit the velocity of the air coursed through belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane, and such air shall not be used to ventilate active working places. Whenever an authorized representative of the Secretary finds, in the case of any coal mine opened on or prior to the operative date of this subchapter which has been developed with more than two entries, that the conditions in the entries, other than belt haulage entries, are such as to permit adequately the coursing of intake or return air through such entries, (1) the belt haulage entries shall not be used to ventilate, unless such entries are necessary to ventilate, active working places, and (2) when the belt haulage entries are not necessary to ventilate the active working places, the operator of such mine shall limit the velocity of the air coursed through the belt haulage entries to the amount necessary to provide an adequate supply of oxygen in such entries, and to insure that the air therein shall contain less than 1.0 volume per centum of methane.

(2) In any coal mine opened on or after the operative date of this subchapter, or, in the case of a coal mine opened prior to such date, in any new working section of such mine, where trolley haulage systems are maintained and where trolley wires or trolley feeder wires are installed, an authorized representative of the Secretary shall require a sufficient number of entries or rooms as intake aircourses in order to limit, as prescribed by the Secretary, the velocity of air currents on such haulageways for the purpose of minimizing the hazards associated with fires and dust explosions in such haulageways.

(z) Pillar extractions; bleeder systems and sealing requirements; standards

(1) While pillars are being extracted in any area of a coal mine, such area shall be ventilated in the manner prescribed by this section.

(2) Within nine months after the operative date of this subchapter, all areas from which pillars have been wholly or partially extracted and abandoned areas, as determined by the Secretary or his authorized representative, shall be ventilated by bleeder entries or by bleeder systems or equivalent means, or be sealed, as determined by the Secretary or his authorized representative. When ventilation of such areas is required, such ventilation shall be maintained so as continuously to dilute, render harmless, and carry away methane and other explosive gases within such areas and to protect the active workings of the mine from the hazards of such methane and other explosive gases. Air coursed through underground areas

from which pillars have been wholly or partially extracted which enters another split of air shall not contain more than 2.0 volume per centum of methane, when tested at the point it enters such other split. When sealing is required, such seals shall be made in an approved manner so as to isolate with explosion-proof bulkheads such areas from the active workings of the mine.

(3) In the case of mines opened on or after the operative date of this subchapter, or in the case of working sections opened on or after such date in mines opened prior to such date, the mining system shall be designed in accordance with a plan and revisions thereof approved by the Secretary and adopted by such operator so that, as each working section of the mine is abandoned, it can be isolated from the active workings of the mine with explosion-proof seals or bulkheads.

(Pub. L. 91-173, title III, § 303, Dec. 30, 1969, 83 Stat. 767.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsecs. (b), (*l*), (*o*), (q), (r), (t), (*y*), and (z)(2), and (3), see section 509 of Pub. L. 91-173 set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 861, 878 of this title.

§ 864. Combustible materials and rock dusting

(a) Accumulations; maintenance

Coal dust, including float coal dust deposited on rock-dusted surfaces, loose coal, and other combustible materials, shall be cleaned up and not be permitted to accumulate in active workings, or on electric equipment therein.

(b) Abatement of hazards in active working areas

Where underground mining operations in active workings create or raise excessive amounts of dust, water or water with a wetting agent added to it, or other no less effective methods approved by the Secretary or his authorized representative, shall be used to abate such dust. In working places, particularly in distances less than forty feet from the face, water, with or without a wetting agent, or other no less effective methods approved by the Secretary or his authorized representative, shall be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard.

(c) Rock dusting of all areas of underground mines; exceptions

All underground areas of a coal mine, except those areas in which the dust is too wet or too high in incombustible content to propagate an explosion, shall be rock dusted to within forty feet of all working faces, unless such areas are inaccessible or unsafe to enter or unless the Secretary or his authorized representative permits an exception upon his finding that such exception will not pose a hazard to the miners. All crosscuts that are less than forty feet from a working face shall also be rock dusted.

(d) Distribution of rock dust; places, quantities

Where rock dust is required to be applied, it shall be distributed upon the top, floor, and sides of all underground areas of a coal mine and maintained in such quantities that the incombustible content of the combined coal dust, rock dust, and other dust shall be not less than 65 per centum, but the incombustible content in the return aircourses shall be no less than 80 per centum. Where methane is present in any ventilating current, the per centum of incombustible content of such combined dusts shall be increased 1.0 and 0.4 per centum for each 0.1 per centum of methane where 65 and 80 per centum, respectively, of incombustibles are required.

(e) Limitation of applicability

Subsections (b) through (d) of this section shall not apply to underground anthracite mines.

(Pub. L. 91-173, title III, § 304, Dec. 30, 1969, 83 Stat. 774.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 865. Electrical equipment

(a) Allowable equipment; replacements; maintenance; permits for noncompliance; renewals; limitations; list of electric face equipment; survey of new and rebuilt equipment; publication of results

(1) Effective one year after the operative date of this subchapter—

(A) all junction or distribution boxes used for making multiple power connections inby the last open crosscut shall be permissible;

(B) all handheld electric drills, blower and exhaust fans, electric pumps, and such other low horsepower electric face equipment as the Secretary may designate within two months after the operative date of this subchapter which are taken into or used inby the last open crosscut of any coal mine shall be permissible;

(C) all electric face equipment which is taken into or used inby the last open crosscut of any coal mine classified under any provision of law as gassy prior to the operative date of this subchapter shall be permissible; and

(D) all other electric face equipment which is taken into or used inby the last crosscut of any coal mine, except a coal mine referred to in paragraph (2) of this subsection, which has not been classified under any provision of law as a gassy mine prior to the operative date of this subchapter shall be permissible.

(2) Effective four years after the operative date of this subchapter, all electric face equipment, other than equipment referred to in paragraph (1)(B) of this subsection, which is taken into or used inby the last open crosscut of any coal mine which is operated entirely in coal seams located above the watertable and which has not been classified under any provision of law as a gassy mine prior to the operative date of this subchapter and in which one or more openings were made prior to December 30, 1969, shall be permissible, except that any operator of such mine who is unable to comply with the provisions of this paragraph on such effective date may file with the Panel an application for a permit for noncompliance ninety days prior to such date. If the Panel deter-

mines, after notice to all interested persons and an opportunity for a public hearing under section 804 of this title, that such application satisfies the provisions of paragraph (10) of this subsection and that such operator, despite his diligent efforts, will be unable to comply with such provisions, the Panel may issue to such operator such a permit. Such permit shall entitle the permittee to an additional extension of time to comply with the provisions of this paragraph of not to exceed twenty-four months, as determined by the Panel, from such effective date.

(3) The operator of each coal mine shall maintain in permissible condition all electric face equipment required by this subsection to be permissible which is taken into or used inby the last open crosscut of any such mine.

(4) Each operator of a coal mine shall, within two months after the operative date of this subchapter, file with the Secretary a statement listing all electric face equipment by type and manufacturer being used by such operator in connection with mining operations in such mine as of the date of such filing, and stating whether such equipment is permissible and maintained in permissible condition or is nonpermissible on such date of filing, and, if nonpermissible, whether such nonpermissible equipment has ever been rated as permissible, and such other information as the Secretary may require.

(5) The Secretary shall promptly conduct a survey as to the total availability of new or rebuilt permissible electric face equipment and replacement parts for such equipment and, within six months after the operative date of this subchapter, publish the results of such survey.

(6) Any operator of a coal mine who is unable to comply with the provisions of paragraph (1)(D) of this subsection within one year after the operative date of this subchapter may file with the Panel an application for a permit for noncompliance. If the Panel determines that such application satisfies the provisions of paragraph (10) of this subsection, the Panel shall issue to such operator a permit for noncompliance. Such permit shall entitle the permittee to an extension of time to comply with such provisions of paragraph (1)(D) of not to exceed twelve months, as determined by the Panel, from the date that compliance with the provisions of paragraph (1)(D) of this subsection is required.

(7) Any operator of a coal mine issued a permit under paragraph (6) of this subsection who, ninety days prior to the termination of such permit, or renewal thereof, determines that he will be unable to comply with the provisions of paragraph (1)(D) of this subsection upon the expiration of such permit may file with the Panel an application for renewal thereof. Upon receipt of such application, the Panel, if it determines, after notice to all interested persons and an opportunity for a public hearing under section 804 of this title, that such application satisfies the provisions of paragraph (10) of this subsection and that such operator, despite his diligent efforts, will be unable to comply with the provisions of paragraph (1)(D), may renew the permit for a period not exceeding twelve months.

(8) Any permit or renewal thereof issued pursuant to this subsection shall entitle the permittee to use such nonpermissible electric face equipment specified in the permit during the term of such permit.

(9) Permits for noncompliance issued under paragraphs (6) or (7) of this subsection shall, in the aggregate, not extend the period of noncompliance more than forty-eight months after December 30, 1969.

(10) Any application for a permit of noncompliance filed under this subsection shall contain a statement by the operator—

(A) that he is unable to comply with paragraph (1)(D) or paragraph (2) of this subsection, as appropriate, within the time prescribed;

(B) listing the nonpermissible electric face equipment being used by such operator in connection with mining operations in such mine on the operative date of this subchapter and the date of the application by type and manufacturer for which a noncompliance permit is requested and whether such equipment had ever been rated as permissible;

(C) setting forth the actions taken from and after the operative date of this subchapter to comply with paragraph (1)(D) or paragraph (2) of this subsection, as appropriate, together with a plan setting forth a schedule of compliance with said paragraphs for each such equipment referred to in such paragraphs and being used by the operator in connection with mining operations in such mine with respect to which such permit is requested and the means and measures to be employed to achieve compliance; and

(D) including such other information as the Panel may require.

(11) No permit for noncompliance shall be issued under this subsection for any nonpermissible electric face equipment, unless such equipment was being used by an operator in connection with the mining operations in a coal mine on the operative date of this subchapter.

(12) Effective one year after the operative date of this subchapter, all replacement equipment acquired for use in any mine referred to in this subsection shall be permissible and shall be maintained in a permissible condition, and in the event of any major overhaul of any item of equipment in use one year from the operative date of this subchapter such equipment shall be put in, and thereafter maintained in, a permissible condition, unless, in the opinion of the Secretary, such equipment or necessary replacement parts are not available.

(b) Notification of permits

A copy of any permit granted under this section shall be mailed immediately to a representative of the miners of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

(c) Gassy mines; maintenance of equipment

Any coal mine which, prior to the operative date of this subchapter, was classed gassy under any provision of law and was required to

use permissible electric face equipment and to maintain such equipment in a permissible condition shall continue to use such equipment and to maintain such equipment in such condition.

(d) Location of nonpermissible power connection units

All power-connection points, except where permissible power connection units are used, outby the last open crosscut shall be in intake air.

(e) Mine map; contents; modifications

The location and the electrical rating of all stationary electric apparatus in connection with the mine electric system, including permanent cables, switchgear, rectifying substations, transformers, permanent pumps and trolley wires and trolley feeder wires, and settings of all direct-current circuit breakers protecting underground trolley circuits, shall be shown on a mine map. Any changes made in a location, electric rating, or setting shall be promptly shown on the map when the change is made. Such map shall be available to an authorized representative of the Secretary and to the miners in such mine.

(f) Repairs; deenergizing of equipment; authorized personnel; locking out of disconnection devices

All power circuits and electric equipment shall be deenergized before work is done on such circuits and equipment, except when necessary for trouble shooting or testing. In addition, energized trolley wires may be repaired only by a person trained to perform electrical work and to maintain electrical equipment and the operator of such mine shall require that such person wear approved and tested insulated shoes and wireman's gloves. No electrical work shall be performed on low-, medium-, or high-voltage distribution circuits or equipment, except by a qualified person or by a person trained to perform electrical work and to maintain electrical equipment under the direct supervision of a qualified person. Disconnecting devices shall be locked out and suitably tagged by the persons who performed such work, except that, in cases where locking out is not possible, such devices shall be opened and suitably tagged by such persons. Locks or tags shall be removed only by the persons who installed them or, if such persons are unavailable, by persons authorized by the operator or his agent.

(g) Periodic examinations; maintenance; records; accessibility

All electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept and made available to an authorized representative of the Secretary and to the miners in such mine.

(h) Electrical conductors

All electric conductors shall be sufficient in size and have adequate current-carrying capacity and be of such construction that a rise in temperature resulting from normal operation will not damage the insulating materials.

(i) Electrical connections

All electrical connections or splices in conductors shall be mechanically and electrically efficient, and suitable connectors shall be used. All electrical connections or splices in insulated wire shall be reinsulated at least to the same degree of protection as the remainder of the wire.

(j) Cables and wires; entry through metal frames

Cables shall enter metal frames of motors, splice boxes, and electric compartments only through proper fittings. When insulated wires other than cables pass through metal frames the holes shall be substantially bushed with insulated bushings.

(k) Support of power wires

All power wires (except trailing cables on mobile equipment, specially designed cables conducting high-voltage power to underground rectifying equipment or transformers, or bare or insulated ground and return wires) shall be supported on well-insulated insulators and shall not contact combustible material, roof, or ribs.

(l) Insulation of power wires; exceptions

Power wires and cables, except trolley wires, trolley feeder wires, and bare signal wires, shall be insulated adequately and fully protected.

(m) Circuit breakers; overload protection for three-phase motors

Automatic circuit-breaking devices or fuses of the correct type and capacity shall be installed so as to protect all electric equipment and circuits against short circuit and overloads. Three-phase motors on all electric equipment shall be provided with overload protection that will deenergize all three phases in the event that any phase is overloaded.

(n) Disconnecting switches for main power circuits; location and installation

In all main power circuits, disconnecting switches shall be installed underground within five hundred feet of the bottoms of shafts and boreholes through which main power circuits enter the underground area of the mine and within five hundred feet of all other places where main power circuits enter the underground area of the mine.

(o) Switches

All electric equipment shall be provided with switches or other controls that are safely designed, constructed, and installed.

(p) Lightning arresters

Each ungrounded, exposed power conductor that leads underground shall be equipped with suitable lightning arresters of approved type within one hundred feet of the point where the circuit enters the mine. Lightning arresters shall be connected to a low resistance grounding medium on the surface which shall be separated from neutral grounds by a distance of not less than twenty-five feet.

(q) Nonapproved devices

No device for the purpose of lighting any coal mine which has not been approved by the Secretary or his authorized representative shall be permitted in such mine.

(r) Deenergizing of electric face equipment

An authorized representative of the Secretary may require in any mine that electric face equipment be provided with devices that will permit the equipment to be deenergized quickly in the event of an emergency.

(Pub. L. 91-173, title III, § 305, Dec. 30, 1969, 83 Stat. 775.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsecs. (a)(1), (2), (4) to (6), (10)(B), (C), (11), (12), and (c), see section 509 of Pub. L. 91-173 set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 861, 863, 878 of this title.

§ 866. Trailing cables

(a) Requirements established for flame resistant cables

Trailing cables used in coal mines shall meet the requirements established by the Secretary for flame-resistant cables.

(b) Circuit breakers; markings and visual observation of position of disconnection devices

Short-circuit protection for trailing cables shall be provided by an automatic circuit breaker or other no less effective device approved by the Secretary of adequate current-interrupting capacity in each ungrounded conductor. Disconnecting devices used to disconnect power from trailing cables shall be plainly marked and identified and such devices shall be equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected.

(c) Distribution center junctions; safety connections

When two or more trailing cables junction to the same distribution center, means shall be provided to assure against connecting a trailing cable to the wrong size circuit breaker.

(d) Temporary splices; usable period; exceptions; quality

One temporary splice may be made in any trailing cable. Such trailing cable may only be used for the next twenty-four hour period. No temporary splice shall be made in a trailing cable within twenty-five feet of the machine, except cable reel equipment. Temporary splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Trailing cables or hand cables which have exposed wires or which have splices that heat or spark under load shall not be used. As used in this subsection, the term "splice" means the mechanical joining of one or more conductors that have been severed.

(e) Permanent splices; quality

When permanent splices in trailing cables are made, they shall be—

(1) mechanically strong with adequate electrical conductivity and flexibility;

(2) effectively insulated and sealed so as to exclude moisture; and

(3) vulcanized or otherwise treated with suitable materials to provide flame-resistant qualities and good bonding to the outer jacket.

(f) Clamping of cables

Trailing cables shall be clamped to machines in a manner to protect the cables from damage and to prevent strain on the electrical connections. Trailing cables shall be adequately protected to prevent damage by mobile equipment.

(g) Making and breaking of connections to junction boxes

Trailing cable and power cable connections to junction boxes shall not be made or broken under load.

(Pub. L. 91-173, title III, § 306, Dec. 30, 1969, 83 Stat. 779.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 867. Grounding of equipment

(a) Metallic enclosed power conductors; metallic frames and other equipment; methods

All metallic sheaths, armors, and conduits enclosing power conductors shall be electrically continuous throughout and shall be grounded by methods approved by an authorized representative of the Secretary. Metallic frames, casings, and other enclosures of electric equipment that can become "alive" through failure of insulation or by contact with energized parts shall be grounded by methods approved by an authorized representative of the Secretary. Methods other than grounding which provide no less effective protection may be permitted by the Secretary or his authorized representative.

(b) Frames of offtrack direct current machines; enclosures of related detached components

The frames of all offtrack direct current machines and the enclosures of related detached components shall be effectively grounded, or otherwise maintained at no less safe voltages, by methods approved by an authorized representative of the Secretary.

(c) Stationary high-voltage equipment powered by underground delta systems

The frames of all stationary high-voltage equipment receiving power from ungrounded delta systems shall be grounded by methods approved by an authorized representative of the Secretary.

(d) Repairs of high-voltage lines; exceptions

High-voltage lines, both on the surface and underground, shall be deenergized and grounded before work is performed on them, except that repairs may be permitted, in the case of energized surface high-voltage lines, if such repairs are made by a qualified person in accordance with procedures and safeguards, including, but not limited to a requirement that the operator of such mine provide, test, and maintain protective devices in making such repairs, to be prescribed by the Secretary prior to the operative date of this subchapter.

(e) Deenergizing of underground power circuits on idle days; exceptions

When not in use, power circuits underground shall be deenergized on idle days and idle shifts,

except that rectifiers and transformers may remain energized.

(Pub. L. 91-173, title III, § 307, Dec. 30, 1969, 83 Stat. 780.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsec. (d), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 868. Underground high-voltage distribution

(a) Circuits entering underground areas of mines; circuit breakers

High-voltage circuits entering the underground area of any coal mine shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and overcurrent.

(b) Circuits extending underground and supplying equipment; direct neutral grounds; ground conductors for frames; exceptions; location of disconnection devices; exceptions

High-voltage circuits extending underground and supplying portable, mobile, or stationary high-voltage equipment shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the source transformers, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all high-voltage equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded high-voltage circuits to be extended underground to feed stationary electrical equipment if such circuits are either steel armored or installed in grounded, rigid steel conduit throughout their entire length, and upon his finding that such exception does not pose a hazard to the miners. Within one hundred feet of the point on the surface where high-voltage circuits enter the underground portion of the mine, disconnecting devices shall be installed and so equipped or designed in such a manner that it can be determined by visual observation that the power is disconnected, except that the Secretary or his authorized representative may permit such devices to be installed at a greater distance from such area of the mine if he determines, based on existing physical conditions, that such installation will be more accessible at a greater distance and will not pose any hazard to the miners.

(c) Grounding resistors

The grounding resistor, where required, shall be of the proper ohmic value to limit the voltage drop in the grounding circuit external to the resistor to not more than 100 volts under fault conditions. The grounding resistor shall be rated for maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(d) Inclusion of fail safe ground check circuits in resistance grounded systems; operative functions; time extension

Six months after the operative date of this subchapter, high-voltage, resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity and the fail safe ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available.

(e) Underground cables used in resistance grounded systems; metallic shields for power conductors; standards; splices

(1) Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated internal or external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit.

(2) All such cables shall be adequate for the intended current and voltage. Splices made in such cables shall provide continuity of all components.

(f) Couplers for power circuits; guidelines for construction

Couplers that are used with medium-voltage or high-voltage power circuits shall be of the three-phase type with a full metallic shell, except that the Secretary may permit, under such guidelines as he may prescribe, no less effective couplers constructed of materials other than metal. Couplers shall be adequate for the voltage and current expected. All exposed metal on the metallic couplers shall be grounded to the ground conductor in the cable. The coupler shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(g) Connections of single-phase loads

Single-phase loads, such as transformer primaries, shall be connected phase to phase.

(h) Installation of underground transmission cables

All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work or pass under them unless they are six and one-half feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with trolley wires and other low-voltage circuits.

(i) Disconnection devices; location; visual observation of position of switch

Disconnecting devices shall be installed at the beginning of branch lines in high-voltage circuits and equipped or designed in such a manner that it can be determined by visual ob-

servation that the circuit is deenergized when the switches are open.

(j) Circuit breakers and disconnection devices; markings

Circuit breakers and disconnecting switches underground shall be marked for identification.

(k) Splices in cables used as trailing cables; terminations and splices in other cables

In the case of high-voltage cables used as trailing cables, temporary splices shall not be used and all permanent splices shall be made in accordance with section 866(e) of this title. Terminations and splices in all other high-voltage cables shall be made in accordance with the manufacturer's specifications.

(l) Grounding of frames of underground equipment

Frames, supporting structures, and enclosures of stationary, portable, or mobile underground high-voltage equipment and all high-voltage equipment supplying power to such equipment receiving power from resistance grounded systems shall be effectively grounded to the high-voltage ground.

(m) Moving of power centers, transformers, and cables; deenergizing; exceptions; safety guidelines; record of examinations

Power centers and portable transformers shall be deenergized before they are moved from one location to another, except that, when equipment powered by sources other than such centers or transformers is not available, the Secretary may permit such centers and transformers to be moved while energized, if he determines that another equivalent or greater hazard may otherwise be created, and if they are moved under the supervision of a qualified person, and if such centers and transformers are examined prior to such movement by such person and found to be grounded by methods approved by an authorized representative of the Secretary and otherwise protected from hazards to the miner. A record shall be kept of such examinations. High-voltage cables, other than trailing cables, shall not be moved or handled at any time while energized, except that, when such centers and transformers are moved while energized as permitted under this subsection, energized high-voltage cables attached to such centers and transformers may be moved only by a qualified person and the operator of such mine shall require that such person wear approved and tested insulated wireman's gloves.

(Pub. L. 91-173, title III, § 308, Dec. 30, 1969, 83 Stat. 780.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsec. (d), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 869. Underground low- and medium-voltage alternating current circuits

(a) Circuits providing power for three-phase equipment; circuit breakers

Low-and medium-voltage power circuits serving three-phase alternating current equipment shall be protected by suitable circuit breakers of adequate interrupting capacity which are properly tested and maintained as prescribed by the Secretary. Such breakers shall be equipped with devices to provide protection against under-voltage, grounded phase, short circuit, and over-current.

(b) Circuits used underground; direct neutral grounds; ground conductors for frames; exceptions; grounding resistors

Low- and medium-voltage three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit, except that the Secretary or his authorized representative may permit ungrounded low- and medium-voltage circuits to be used underground to feed such stationary electrical equipment if such circuits are either steel armored or installed in grounded rigid steel conduit throughout their entire length. The grounding resistor, where required, shall be of the proper ohmic value to limit the ground fault current to 25 amperes. The grounding resistor shall be rated from maximum fault current continuously and insulated from ground for a voltage equal to the phase-to-phase voltage of the system.

(c) Inclusion of fail safe ground check circuits in resistance ground systems; operative functions; time extension; couplers for power circuits; guidelines for construction

Six months after the operative date of this subchapter, low- and medium-voltage resistance grounded systems shall include a fail safe ground check circuit to monitor continuously the grounding circuit to assure continuity which ground check circuit shall cause the circuit breaker to open when either the ground or pilot check wire is broken, or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months, may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Cable couplers shall be constructed so that the ground check continuity conductor shall be broken first and the ground conductors shall be broken last when the coupler is being uncoupled.

(d) Disconnecting devices installed in conjunction with circuit breakers; purpose; trailing cables for mobile equipment; guidelines for construction; time extension; splices

Disconnecting devices shall be installed in conjunction with the circuit breaker to provide visual evidence that the power is disconnected. Trailing cables for mobile equipment shall con-

tain one or more ground conductors having a cross sectional area of not less than one-half the power conductor, and, six months after the operative date of this subchapter, an insulated conductor for the ground continuity check circuit or other no less effective device approved by the Secretary or his authorized representative to assure such continuity, except that an extension of time, not in excess of twelve months may be permitted by the Secretary on a mine-by-mine basis if he determines that such equipment is not available. Splices made in the cables shall provide continuity of all components.

(e) Connections of single phase loads

Single phase loads shall be connected phase to phase.

(f) Circuit breakers; markings

Circuit breakers shall be marked for identification.

(g) Trailing cables for medium voltage circuits; guidelines for construction

Trailing cables for medium voltage circuits shall include grounding conductors, a ground check conductor, and ground metallic shields around each power conductor or a grounded metallic shield over the assembly, except that on equipment employing cable reels, cables without shields may be used if the insulation is rated 2,000 volts or more.

(Pub. L. 91-173, title III, § 309, Dec. 30, 1969, 83 Stat. 782.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsecs. (c) and (d), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 870. Trolley wires and trolley feeder wires

(a) Intervals for cutoff switches

Trolley wires and trolley feeder wires shall be provided with cutout switches at intervals of not more than 2,000 feet and near the beginning of all branch lines.

(b) Overcurrent protection devices

Trolley wires and trolley feeder wires shall be provided with overcurrent protection.

(c) Location of wires

Trolley wires and trolley feeder wires, high-voltage cables and transformers shall not be located inby the last open crosscut and shall be kept at least 150 feet from pillar workings.

(d) Adequate insulation and guard devices; promulgation of safety guidelines

Trolley wires, trolley feeder wires, and bare signal wires shall be insulated adequately where they pass through doors and stoppings, and where they cross other power wires and cables. Trolley wires and trolley feeder wires shall be guarded adequately (1) at all points where men are required to work or pass regularly under the wires; (2) on both sides of all doors and stoppings; and (3) at man-trip stations. The Secretary or his authorized representatives shall specify other conditions where trolley wires and trolley feeder wires shall be adequately protected to prevent contact by any person, or shall require the use of improved methods to prevent such contact. Temporary guards shall be provided where trackmen and other persons work in proximity to trolley wires and trolley feeder wires.

(Pub. L. 91-173, title III, § 310, Dec. 30, 1969, 83 Stat. 783.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 871. Fire protection

(a) Firefighting equipment; promulgation of minimum requirements for equipment; existing requirements; examinations after blasting

Each coal mine shall be provided with suitable firefighting equipment adapted for the size and conditions of the mine. The Secretary shall establish minimum requirements for the type, quality, and quantity of such equipment, and the interpretations of the Secretary or the Director of the Bureau of Mines relating to such equipment in effect on the operative date of this subchapter shall continue in effect until modified or superseded by the Secretary. After every blasting operation, an examination shall be made to determine whether fires have been started.

(b) Underground storage areas for lubricating oils and greases; construction; exceptions

Underground storage places for lubricating oil and grease shall be of fireproof construction. Except for specially prepared materials approved by the Secretary, lubricating oil and grease kept in all underground areas in a coal mine shall be in fireproof, closed metal containers or other no less effective containers approved by the Secretary.

(c) Housing of underground structures, stations, shops, and pumps; construction; ventilation

Underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps shall be housed in fireproof structures or areas. Air currents used to ventilate structures or areas enclosing electrical installations shall be coursed directly into the return. Other underground structures installed in a coal mine as the Secretary may prescribe shall be of fireproof construction.

(d) Use of arc or flame in underground mines; fireproof enclosures; operations outside fireproof enclosures; procedures; standards

All welding, cutting, or soldering with arc or flame in all underground areas of a coal mine shall, whenever practicable, be conducted in fireproof enclosures. Welding, cutting or soldering with arc or flame in other than a fireproof enclosure shall be done under the supervision of a qualified person who shall make a diligent search for fire during and after such operations and shall, immediately before and during such operations, continuously test for methane with means approved by the Secretary for detecting methane. Welding, cutting, or soldering shall not be conducted in air that contains 1.0 volume per centum or more of methane. Rock dust or suitable fire extinguishers shall be im-

mediately available during such welding, cutting, or soldering.

(e) Installation of fire suppression devices on unattended underground equipment; flame-resistant hydraulic fluids

Within one year after the operative date of this subchapter, fire suppression devices meeting specifications prescribed by the Secretary shall be installed on unattended underground equipment and suitable fire-resistant hydraulic fluids approved by the Secretary shall be used in the hydraulic systems of such equipment. Such fluids shall be used in the hydraulic systems of other underground equipment unless fire suppression devices meeting specifications prescribed by the Secretary are installed on such equipment.

(f) Deluge-type water sprays at main and secondary drives

Deluge-type water sprays or foam generators automatically actuated by rise in temperature, or other no less effective means approved by the Secretary of controlling fire, shall be installed at main and secondary belt-conveyor drives. Where sprays or foam generators are used they shall supply a sufficient quantity of water or foam to control fires.

(g) Installation of slippage and sequence switches on belt conveyors; fire suppression devices on belt haulageways

Underground belt conveyors shall be equipped with slippage and sequence switches. The Secretary shall, within sixty days after the operative date of this subchapter, require that devices be installed on all such belts which will give a warning automatically when a fire occurs on or near such belt. The Secretary shall prescribe a schedule for installing fire suppression devices on belt haulageways.

(h) Flame-resistant conveyor belt

On and after the operative date of this subchapter, all conveyor belts acquired for use underground shall meet the requirements to be established by the Secretary for flame-resistant conveyor belts.

(Pub. L. 91-173, title III, § 311, Dec. 30, 1969, 83 Stat. 783.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to subsecs. (a), (e), (g), and (h), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 861, 877 of this title.

§ 872. Maps

(a) Fireproof repository; contents; certification

The operator of a coal mine shall have in a fireproof repository located in an area on the surface of the mine chosen by the mine operator to minimize the danger of destruction by fire or other hazard, an accurate and up-to-date map of such mine drawn on scale. Such map shall show the active workings, all pillared, worked out, and abandoned areas, except as provided in this section, entries and aircourses with the direction of airflow indicated by arrows, contour lines of all elevations, elevations of all main and cross or side entries, dip of the coalbed, escapeways, adjacent mine workings within one thousand feet, mines above or below, water pools above, and either producing or abandoned oil and gas wells located within five hundred feet of such mine and any underground area of such mine, and such other information as the Secretary may require. Such map shall identify those areas of the mine which have been pillared, worked out, or abandoned which are inaccessible or cannot be entered safely and on which no information is available. Such map shall be made or certified by a registered engineer or a registered surveyor of the State in which the mine is located. Such map shall be kept up to date by temporary notations and such map shall be revised and supplemented at intervals prescribed by the Secretary on the basis of a survey made or certified by such engineer or surveyor.

(b) Availability for inspection; confidential copies

The coal mine map and any revision and supplement thereof shall be available for inspection by the Secretary or his authorized representative, by coal mine inspectors of the State in which the mine is located, by miners in the mine and their representatives and by operators of adjacent coal mines and by persons owning, leasing, or residing on surface areas of such mines or areas adjacent to such mines. The operator shall furnish to the Secretary or his authorized representative and to the Secretary of Housing and Urban Development, upon request, one or more copies of such map and any revision and supplement thereof. Such map or revision and supplement thereof shall be kept confidential and its contents shall not be divulged to any other person, except to the extent necessary to carry out the provisions of this chapter and in connection with the functions and responsibilities of the Secretary of Housing and Urban Development.

(c) Notification of mine closures; filing of revised and supplemental map; certification

Whenever an operator permanently closes or abandons a coal mine, or temporarily closes a coal mine for a period of more than ninety days, he shall promptly notify the Secretary of such closure. Within sixty days of the permanent closure or abandonment of the mine, or, when the mine is temporarily closed, upon the expiration of a period of ninety days from the date of closure, the operator shall file with the Secretary a copy of the mine map revised and supplemented to the date of the closure. Such copy of the mine map shall be certified by a registered surveyor or registered engineer of the State in which the mine is located and shall be available for public inspection.

(Pub. L. 91-173, title III, § 312, Dec. 30, 1969, 83 Stat. 785.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 873. Blasting and explosives

(a) Limitations on storage and use of black powder and mudcaps

Black blasting powder shall not be stored or used underground. Mudcaps (adobes) or other

unconfined shots shall not be fired underground.

(b) Storage of explosives and detonators; mudcaps in anthracite mines; restrictions; tests

Explosives and detonators shall be kept in separate containers until immediately before blasting. In underground anthracite mines, (1) mudcaps or other open, unconfined shake shots may be fired, if restricted to battery starting when methane or a fire hazard is not present, and if it is otherwise impracticable to start the battery; (2) open, unconfined shake shots in pitching veins may be fired, when no methane or fire hazard is present, if the taking down of loose hanging coal by other means is too hazardous; and (3) tests for methane shall be made immediately before such shots are fired and if 1.0 volume per centum or more of methane is present, when tested, such shot shall not be made until the methane content is reduced below 1.0 volume per centum.

(c) Permissible explosives, detonators, and devices; firing; stem boreholes; nonpermissible explosives; compressed air blasting

Except as provided in this subsection, in all underground areas of a coal mine only permissible explosives, electric detonators of proper strength, and permissible blasting devices shall be used and all explosives and blasting devices shall be used in a permissible manner. Permissible explosives shall be fired only with permissible shot firing units. Only incombustible materials shall be used for stemming boreholes. The Secretary may, under such safeguards as he may prescribe, permit the firing of more than twenty shots and allow the use of nonpermissible explosives in sinking shafts and slopes from the surface in rock. Nothing in this section shall prohibit the use of compressed air blasting.

(d) Container construction for carrying explosives or detonators in underground mines

Explosives or detonators carried anywhere underground in a coal mine by any person shall be in containers constructed of nonconductive material, maintained in good condition, and kept closed.

(e) Transportation of explosives or detonators in underground mines

Explosives or detonators shall be transported in special closed containers (1) in cars moved by means of a locomotive or rope, (2) on belts, (3) in shuttle cars, or (4) in equipment designed especially to transport such explosives or detonators.

(f) Storage of explosives and detonators in working sections of underground mines; containers; locations

When supplies of explosives and detonators for use in one or more working sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five feet from roadways and power wires, and in a dry, well rock-dusted location protected from falls of roof, except in pitching beds, where it is not possible to comply with the location requirement, such boxes shall be placed in niches cut into the solid coal or rock.

(g) Location of explosive and detonator containers in working places of underground mines

Explosives and detonators stored in the working places shall be kept in separate closed containers which shall be located out of the line of blast and not less than fifty feet from the working face and fifteen feet from any pipeline, powerline, rail, or conveyor, except that, if kept in niches in the rib, the distance from any pipeline, powerline, rail, or conveyor shall be at least five feet. Such explosives and detonators, when stored, shall be separated by a distance of at least five feet.

(Pub. L. 91-173, title III, § 313, Dec. 30, 1969, 83 Stat. 785.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 874. Hoisting and mantrips

(a) Transporting of persons; required equipment and capabilities; safety catches; daily examinations; operators

Every hoist used to transport persons at a coal mine shall be equipped with overspeed, overwind, and automatic stop controls. Every hoist handling platforms, cages, or other devices used to transport persons shall be equipped with brakes capable of stopping the fully loaded platform, cage, or other device; with hoisting cable adequately strong to sustain the fully loaded platform, cage, or other device; and have a proper margin of safety. Cages, platforms, or other devices which are used to transport persons in shafts and slopes shall be equipped with safety catches or other no less effective devices approved by the Secretary that act quickly and effectively in an emergency, and such catches shall be tested at least once every two months. Hoisting equipment, including automatic elevators, that is used to transport persons shall be examined daily. Where persons are transported into, or out of, a coal mine by hoists, a qualified hoisting engineer shall be on duty while any person is underground, except that no such engineer shall be required for automatically operated cages, platforms, or elevators.

(b) Promulgation of other safeguards

Other safeguards adequate, in the judgment of an authorized representative of the Secretary, to minimize hazards with respect to transportation of men and materials shall be provided.

(c) Rated capacities; indicator for position of cage

Hoists shall have rated capacities consistent with the loads handled and the recommended safety factors of the ropes used. An accurate and reliable indicator of the position of the cage, platform, skip, bucket, or cars shall be provided.

(d) Methods for signaling between shaft stations and hoist rooms

There shall be at least two effective methods approved by the Secretary of signaling between each of the shaft stations and the hoist room, one of which shall be a telephone or speaking tube.

(e) Braking equipment for haulage cars used in underground mines

Each locomotive and haulage car used in an underground coal mine shall be equipped with automatic brakes, where space permits. Where space does not permit automatic brakes, locomotives and haulage cars shall be subject to speed reduction gear, or other similar devices approved by the Secretary which are designed to stop the locomotives and haulage cars with the proper margin of safety.

(f) Automatic couplers for haulage equipment

All haulage equipment acquired by an operator of a coal mine on or after one year after the operative date of this subchapter shall be equipped with automatic couplers which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. All haulage equipment without automatic couplers in use in a mine on the operative date of this subchapter shall also be so equipped within four years after the operative date of this subchapter.

(Pub. L. 91-173, title III, § 314, Dec. 30, 1969, 83 Stat. 786.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsec. (f), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 875. Emergency shelters; construction; contents; implementation plans

The Secretary or an authorized representative of the Secretary may prescribe in any coal mine that rescue chambers, properly sealed and ventilated, be erected at suitable locations in the mine to which persons may go in case of an emergency for protection against hazards. Such chambers shall be properly equipped with first aid materials, an adequate supply of air and self-contained breathing equipment, an independent communication system to the surface, and proper accommodations for the persons while awaiting rescue, and such other equipment as the Secretary may require. A plan for the erection, maintenance, and revisions of such chambers and the training of the miners in their proper use shall be submitted by the operator to the Secretary for his approval.

(Pub. L. 91-173, title III, § 315, Dec. 30, 1969, 83 Stat. 787.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 876. Communication facilities; locations

Telephone service or equivalent two-way communication facilities, approved by the Secretary or his authorized representative, shall be provided between the surface and each landing of main shafts and slopes and between the surface and each working section of any coal mine that is more than one hundred feet from a portal.

(Pub. L. 91-173, title III, § 316, Dec. 30, 1969, 83 Stat. 787.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 877. General safety provisions

(a) Location of oil and gas wells; establishment and maintenance of barriers; minimum requisites; exceptions

Each operator of a coal mine shall take reasonable measures to locate oil and gas wells penetrating coalbeds or any underground area of a coal mine. When located, such operator shall establish and maintain barriers around such oil and gas wells in accordance with State laws and regulations, except that such barriers shall not be less than three hundred feet in diameter, unless the Secretary or his authorized representative permits a lesser barrier consistent with the applicable State laws and regulations where such lesser barrier will be adequate to protect against hazards from such wells to the miners in such mine, or unless the Secretary or his authorized representative requires a greater barrier where the depth of the mine, other geologic conditions, or other factors warrant such a greater barrier.

(b) Boreholes in advance of work face; distance in advance of work face; distance between boreholes

Whenever any working place approaches within fifty feet of abandoned areas in the mine as shown by surveys made and certified by a registered engineer or surveyor, or within two hundred feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty feet in advance of the working face of such working place and shall be continually maintained to a distance of at least ten feet in advance of the advancing working face. When there is more than one borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than eight feet apart in the rib of such working place to a distance of at least twenty feet and at an angle of forty-five degrees. Such rib holes shall be drilled in one or both ribs of such working place as may be necessary for adequate protection of miners in such place.

(c) Prohibition against smoking, implementation programs

No person shall smoke, carry smoking materials, matches, or lighters underground, or smoke in or around oil houses, explosives magazines, or other surface areas where such practice may cause a fire or explosion. The operator shall institute a program, approved by the Secretary, to insure that any person entering the underground area of the mine does not carry smoking materials, matches, or lighters.

(d) Portable electric lamps; exceptions

Persons underground shall use only permissible electric lamps approved by the Secretary for portable illumination. No open flame shall be permitted in the underground area of any

coal mine, except as permitted under section 871(d) of this title.

(e) Promulgation of lighting standards

Within nine months after the operative date of this subchapter, the Secretary shall propose the standards under which all working places in a mine shall be illuminated by permissible lighting, within eighteen months after the promulgation of such standards, while persons are working in such places.

(f) Escapeways; ventilation; maintenance; tests of passageways; protection of entrance; connection between mine openings

(1) Except as provided in paragraphs (2) and (3) of this subsection, at least two separate and distinct travelable passageways which are maintained to insure passage at all times of any person, including disabled persons, and which are to be designated as escapeways, at least one of which is ventilated with intake air, shall be provided from each working section continuous to the surface escape drift opening, or continuous to the escape shaft or slope facilities to the surface, as appropriate, and shall be maintained in safe condition and properly marked. Mine openings shall be adequately protected to prevent the entrance into the underground area of the mine of surface fires, fumes, smoke, and flood water. Escape facilities approved by the Secretary or his authorized representative, properly maintained and frequently tested, shall be present at or in each escape shaft or slope to allow all persons, including disabled persons, to escape quickly to the surface in the event of an emergency.

(2) When new coal mines are opened, not more than twenty miners shall be allowed at any one time in any mine until a connection has been made between the two mine openings, and such connections shall be made as soon as possible.

(3) When only one mine opening is available, owing to final mining of pillars, not more than twenty miners shall be allowed in such mine at any one time, and the distance between the mine opening and working face shall not exceed five hundred feet.

(4) In the case of all coal mines opened on or after the operative date of this subchapter, and in the case of all new working sections opened on or after such date in mines opened prior to such date, the escapeway required by this section to be ventilated with intake air shall be separated from the belt and trolley haulage entries of the mine for the entire length of such entries to the beginning of each working section, except that the Secretary or his authorized representative may permit such separation to be extended for a greater or lesser distance so long as such extension does not pose a hazard to the miners.

(g) Erection of fireproof structures; prior existing structures; fire doors; monthly tests; records; availability

After the operative date of this subchapter, all structures erected on the surface within one hundred feet of any mine opening shall be of fireproof construction. Unless structures existing on or prior to such date which are located within one hundred feet of any mine opening are of such construction, fire doors shall be erected at effective points in mine openings to prevent smoke or fire from outside sources endangering miners underground. These doors shall be tested at least monthly to insure effective operation. A record of such tests shall be kept in an area on the surface of the mine chosen by the operator to minimize the danger of destruction by fire or other hazard and shall be available for inspection by interested persons.

(h) Prevention of accumulations of coal dust and methane gas; surface coal-handling facilities; air-intake openings

Adequate measures shall be taken to prevent methane and coal dust from accumulating in excessive concentrations in or on surface coal-handling facilities, but in no event shall methane be permitted to accumulate in concentrations in or on surface coal-handling facilities in excess of limits established for methane by the Secretary within one year after the operative date of this subchapter. Where coal is dumped at or near air-intake openings, provisions shall be made to avoid dust from entering the mine.

(i) Training programs

Every operator of a coal mine shall provide a program, approved by the Secretary, of training and retraining of both qualified and certified persons needed to carry out functions prescribed in this chapter.

(j) Electric face equipment; installation of canopies

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies or cabs to protect the miners operating such equipment from roof falls and from rib and face rolls.

(k) Mine entrances; sealing; prevention of entry by unauthorized personnel

On and after the operative date of this subchapter, the opening of any coal mine that is declared inactive by its operator or is permanently closed or abandoned for more than ninety days, shall be sealed by the operator in a manner prescribed by the Secretary. Openings of all other mines shall be adequately protected in a manner prescribed by the Secretary to prevent entrance by unauthorized persons.

(l) Facilities for changing and storing clothes; toilet and bathing facilities

The Secretary may require any operator to provide adequate facilities for the miners to change from the clothes worn underground, to provide for the storing of such clothes from shift to shift, and to provide sanitary and bathing facilities. Sanitary toilet facilities shall be provided in the active workings of the mine when such surface facilities are not readily accessible to the active workings.

(m) Emergency medical assistance preparations; locations for medical equipment; filing of implementation plans

Each operator shall make arrangements in advance for obtaining emergency medical assistance and transportation for injured persons. Emergency communications shall be provided to the nearest point of assistance. Selected agents of the operator shall be trained in first aid and first aid training shall be made avail-

able to all miners. Each coal mine shall have an adequate supply of first aid equipment located on the surface, at the bottom of shafts and slopes, and at other strategic locations near the working faces. In fulfilling each of the requirements of this subsection, the operator shall meet at least minimum requirements prescribed by the Secretary of Health, Education, and Welfare. Within two months after the operative date of this subchapter, each operator shall file with the Secretary a plan setting forth in such detail as the Secretary may require the manner in which such operator has fulfilled the requirements in this subsection.

(n) Self-rescue device; training of personnel

A self-rescue device approved by the Secretary shall be made available to each miner by the operator which shall be adequate to protect such miner for one hour or longer. Each operator shall train each miner in the use of such device.

(o) Methods of eliminating oxygen deficiencies

The Secretary shall prescribe improved methods of assuring that miners are not exposed to atmospheres that are deficient in oxygen.

(p) Identification check system; records

Each operator of a coal mine shall establish a check-in and check-out system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine kept on the surface in a place chosen to minimize the danger of destruction by fire or other hazard. Such record shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground. The identification check shall be made of a rust resistant metal of not less than sixteen gauge.

(q) Installation of devices to prevent and suppress ignition on electric cutting face equipment

The Secretary shall require, when technologically feasible, that devices to prevent and suppress ignitions be installed on electric face cutting equipment.

(r) Tunnelling under water; permits; contents; necessity; safety zones; restrictions

Whenever an operator mines coal from a coal mine opened after the operative date of this subchapter, or from any new working section of a mine opened prior to such date, in a manner that requires the construction, operation, and maintenance of tunnels under any river, stream, lake, or other body of water, that is, in the judgment of the Secretary, sufficiently large to constitute a hazard to miners, such operator shall obtain a permit from the Secretary which shall include such terms and conditions as he deems appropriate to protect the safety of miners working or passing through such tunnels from cave-ins and other hazards. Such permits shall require, in accordance with a plan to be approved by the Secretary, that a safety zone be established beneath and adjacent to such body of water. No plan shall be approved unless there is a minimum of cover to be determined by the Secretary, based on test holes drilled by the operator in a manner to be prescribed by the Secretary. No such permit shall be required in the case of any new working section of a mine which is located under any water resource reservoir being constructed by a Federal agency on December 30, 1969, the operator of which is required by such agency to operate in a manner that adequately protects the safety of miners working in such section from cave-ins and other hazards.

(s) Drinking water

An adequate supply of potable water shall be provided for drinking purposes in the active workings of the mine, and such water shall be carried, stored, and otherwise protected in sanitary containers.

(t) Standards for prevention of explosions from nonmethane gases and for testing for accumulations

Within one year after the operative date of this subchapter, the Secretary shall propose standards for preventing explosions from explosive gases other than methane and for testing for accumulations of such gases.

(Pub. L. 91-173, title III, § 317, Dec. 30, 1969, 83 Stat. 787.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in subsecs. (e), (f)(4), (g), (h), (k), (m), (r), and (t), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 861 of this title.

§ 878. Definitions

For the purpose of this subchapter and subchapter II of this chapter, the term—

(a) "certified" or "registered" as applied to any person means a person certified or registered by the State in which the coal mine is located to perform duties prescribed by such subchapters, except that, in a State where no program of certification or registration is provided or where the program does not meet at least minimum Federal standards established by the Secretary, such certification or registration shall be by the Secretary;

(b) "qualified person" means, as the context requires,

(1) an individual deemed qualified by the Secretary and designated by the operator to make tests and examinations required by this chapter; and

(2) an individual deemed, in accordance with minimum requirements to be established by the Secretary, qualified by training, education, and experience, to perform electrical work, to maintain electrical equipment, and to conduct examinations and tests of all electrical equipment;

(c) "permissible" as applied to—

(1) equipment used in the operation of a coal mine, means equipment, other than permissible electric face equipment, to which an approval plate, label, or other device is attached as authorized by the Secretary and which meets specifications which are prescribed by the Secretary for the construction and maintenance of such equipment and are designed to assure that such equipment will not cause a mine explosion or a mine fire,

(2) explosives, shot firing units, or blasting devices used in such mine, means explo-

sives, shot firing units, or blasting devices which meet specifications which are prescribed by the Secretary, and

(3) the manner of use of equipment or explosives, shot firing units, and blasting devices, means the manner of use prescribed by the Secretary;

(d) "rock dust" means pulverized limestone, dolomite, gypsum, anhydrite, shale, adobe, or other inert material, preferably light colored, 100 per centum of which will pass through a sieve having twenty meshes per linear inch and 70 per centum or more of which will pass through a sieve having two hundred meshes per linear inch; the particles of which when wetted and dried will not cohere to form a cake which will not be dispersed into separate particles by a light blast of air; and which does not contain more than 5 per centum of combustible matter or more than a total of 4 per centum of free and combined silica (SiO_2), or, where the Secretary finds that such silica concentrations are not available, which does not contain more than 5 per centum of free and combined silica;

(e) "anthracite" means coals with a volatile ratio equal to 0.12 or less;

(f) "volatile ratio" means volatile matter content divided by the volatile matter plus the fixed carbon;

(g)(1) "working face" means any place in a coal mine in which work of extracting coal from its natural deposit in the earth is performed during the mining cycle,

(2) "working place" means the area of a coal mine inby the last open crosscut,

(3) "working section" means all areas of the coal mine from the loading point of the section to and including the working faces,

(4) "active workings" means any place in a coal mine where miners are normally required to work or travel;

(h) "abandoned areas" means sections, panels, and other areas that are not ventilated and examined in the manner required for working places under section 863 of this title;

(i) "permissible" as applied to electric face equipment means all electrically operated equipment taken into or used in by the last open crosscut of an entry or a room of any coal mine the electrical parts of which, including, but not limited to, associated electrical equipment, components, and accessories, are designed, constructed, and installed, in accordance with the specifications of the Secretary, to assure that such equipment will not cause a mine explosion or mine fire, and the other features of which are designed and constructed, in accordance with the specifications of the Secretary, to prevent, to the greatest extent possible, other accidents in the use of such equipment; and the regulations of the Secretary or the Director of the Bureau of Mines in effect on the operative date of this subchapter relating to the requirements for investigation, testing, approval, certification, and acceptance of such equipment as permissible shall continue in effect until modified or superseded by the Secretary, except that the Secretary shall provide procedures, including, where feasible, testing, approval, certification, and acceptance in the field by an authorized representative of the Secretary, to facilitate compliance by an operator with the requirements of section 865(a) of this title within the periods prescribed therein;

(j) "low voltage" means up to and including 660 volts; "medium voltage" means voltages from 661 to 1,000 volts; and "high voltage" means more than 1,000 volts;

(k) "respirable dust" means only dust particulates 5 microns or less in size; and

(*l*) "coal mine" includes areas of adjoining mines connected underground.

(Pub. L. 91-173, title III, § 318, Dec. 30, 1969, 83 Stat. 791.)

REFERENCES IN TEXT

For the operative date of this subchapter, referred to in par. (i), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 841, 861 of this title.

SUBCHAPTER IV—BLACK LUNG BENEFITS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 819 of this title.

PART A—GENERAL PROVISIONS

§ 901. Congressional findings and declaration of purpose

Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease or who were totally disabled by this disease at the time of their deaths; and that few States provide benefits for death or disability due to this disease to coal miners or their surviving dependents. It is, therefore, the purpose of this subchapter to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease or who were totally disabled by this disease at the time of their deaths; and to insure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disability due to pneumoconiosis.

(Pub. L. 91-173, title IV, § 401, Dec. 30, 1969, 83 Stat. 792; Pub. L. 92-303, §§ 3(a), 4(b)(2), May 19, 1972, 86 Stat. 153, 154.)

CODIFICATION

Amendment by section 4(b)(2) of Pub. L. 92-303 providing for the addition of "or who were totally disabled by this disease at the time of their deaths" following each place "disease" appears in the text has been executed to the first and third instances; however, in order to conform to the probable intent of Congress, the amendment has not been executed to the second instance in view of the resulting language of the text.

AMENDMENTS

1972—Pub. L. 92-303, § 3(a), added "or who were totally disabled by this disease at the time of their deaths" following "disease" in two places and struck out "underground" preceding "coal mines". See Codification note set out above.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 3(c) of Pub. L. 92-303 provided that: "The amendments made by this section [amending sections 901, 902, 921, 932, and 933 of this title] shall be effective as of December 30, 1969."

Amendment by section 4(b)(2) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 921 of this title.

EFFECTIVE DATE

Subchapter effective Dec. 30, 1969, see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SHORT TITLE

Section 1(a) of Pub. L. 92-303 provided that: "[T]his Act [enacting sections 925, 937 to 941 of this title, amending this section and sections 902, 921, 922, 923, 924, 931, 932, 933, 934, and 936 of this title, and enacting provisions set out as notes under sections 921, 922, and 923 of this title] may be cited as the 'Black Lung Benefits Act of 1972'."

§ 902. Definitions

(a) The term "dependent" means—

(1) a child as defined in subsection (g) of this section without regard to subparagraph (2)(B)(ii) thereof; or

(2) a wife who is a member of the same household as the miner, or is receiving regular contributions from the miner for her support, or whose husband is a miner who has been ordered by a court to contribute to her support, or who meets the requirements of section 416(b)(1) or (2) of title 42. The determination of an individual's status as the "wife" of a miner shall be made in accordance with section 416(h)(1) of title 42, as if such miner were the "insured individual" referred to therein. The term "wife" also includes a "divorced wife" as defined in section 416(d)(1) of title 42 who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to her support from such miner.

(b) The term "pneumoconiosis" means a chronic dust disease of the lung arising out of employment in a coal mine.

(c) The term "Secretary" where used in part B means the Secretary of Health, Education, and Welfare, and where used in part C means the Secretary of Labor.

(d) The term "miner" means any individual who is or was employed in a coal mine.

(e) The term "widow" includes the wife living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 416(c)(1), (2), (3), (4), or (5), and section 416(k) of title 42, who is not married. The determination of an individual's status as the "widow" of a miner shall be made in accordance with section 416(h)(1) of title 42 as if such miner were the "insured individual" referred to therein. Such term also includes a "surviving divorced wife" as defined in section 416(d)(2) of title 42 who for the month preceding the month in which the miner died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from the miner at the time of his death.

(f) The term "total disability" has the meaning given it by regulations of the Secretary of Health, Education, and Welfare, except that such regulations shall provide that a miner shall be considered totally disabled when pneumoconiosis prevents him from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he previously engaged with some regularity and over a substantial period of time. Such regulations shall not provide more restrictive criteria than those applicable under section 423(d) of title 42.

(g) The term "child" means a child or a stepchild who is—

(1) unmarried; and

(2)(A) under eighteen years of age, or

(B)(i) under a disability as defined in section 423(d) of title 42,

(ii) which began before the age specified in section 402(d)(1)(B)(ii) of title 42, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term "student" means a "full-time student" as defined in section 402(d)(7) of title 42, or a "student" as defined in section 8101(17) of title 5. The determination of an individual's status as the "child" of the miner or widow, as the case may be, shall be made in accordance with section 416(h)(2) or (3) of title 42 as if such miner or widow were the "insured individual" referred to therein.

(Pub. L. 91-173, title IV, § 402, Dec. 30, 1969, 83 Stat. 792; Pub. L. 92-303, §§ 1(c)(2)–(4), 3(b), 4(a), May 19, 1972, 86 Stat. 151-153.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, § 1(c)(2), expanded the definition of "dependent" to include children and wife without reference to section 8110 of title 5.

Subsec. (b). Pub. L. 92-303, § 3(b), substituted "a coal mine" for "an underground coal mine".

Subsec. (d). Pub. L. 92-303, § 3(b), substituted "a coal mine" for "an underground coal mine".

Subsec. (e). Pub. L. 92-303, § 1(c)(3), expanded the definition of "widow" by reference to title 42 and provided procedure for the determination of the status.

Subsec. (f). Pub. L. 92-303, § 4(a), expanded the definition of "total disability" to include a miner prevented from engaging in gainful employment by pneumoconiosis.

Subsec. (g). Pub. L. 92-303, § 1(c)(4), added subsec. (g).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (b) and (d) by section 3(b) of Pub. L. 92-303 effective December 30, 1969, see section

3(c) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 901 of this title.

Amendment of subsec. (f) by section 4(a) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 922, 931 of this title.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1973

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 931, 936, 940 of this title.

§ 921. Regulations and presumptions

(a) Promulgation; payment of benefits

The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him under this part, make payments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis or who at the time of his death was totally disabled by pneumoconiosis.

(b) Promulgation of standards determining total disability

The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a) of this section whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after December 30, 1969, and in no event later than the end of the third month following December 1969. Final regulations required for implementation of any amendments to this subchapter shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) Particular rebuttable presumptions

For purposes of this section—

(1) if a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment;

(2) if a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis;

(3) if a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis or that at the time of his death he was totally disabled by pneumoconiosis, as the case may be; and

(4) if a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under this subchapter and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impairment, then there shall be a rebuttable presumption that such miner is totally disabled due to pneumoconiosis, that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis. In the case of a living miner, a wife's affidavit may not be used by itself to establish the presumption. The Secretary shall not apply all or a portion of the requirement of this paragraph that the miner work in an underground mine where he determines that conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. The Secretary may rebut such presumption only by establishing that (A) such miner does not, or did not, have pneumoconiosis, or that (B) his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

(d) Applicability of presumptions

Nothing in subsection (c) of this section shall be deemed to affect the applicability of subsection (a) of this section in the case of a claim where the presumptions provided for therein are inapplicable.

(Pub. L. 91-173, title IV, § 411, Dec. 30, 1969, 83 Stat. 793; Pub. L. 92-303, §§ 3(a), 4(b)(1), (3), (c), (d), May 19, 1972, 86 Stat. 153, 154.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, § 4(b)(1), substituted "pneumoconiosis or who at the time of his death was totally disabled by pneumoconiosis" for "pneumoconiosis".

Subsec. (b). Pub. L. 92-303, § 4(d), added provision for the promulgation and publication in the Federal Register of final regulations and their amendments and for time limits for publication.

Subsec. (c)(1). Pub. L. 92-303, § 3(a), substituted "coal mines" for "underground coal mines".

Subsec. (c)(2). Pub. L. 92-303, § 3(a), substituted "coal mines" for "underground coal mines".

Subsec. (c)(3). Pub. L. 92-303, § 4(b)(3), added presumption that at the time of death the miner was totally disabled by pneumoconiosis.

Subsec. (c)(4). Pub. L. 92-303, § 4(c), added par. (4).

EFFECTIVE DATE OF 1972 AMENDMENT

Section 4(g) of Pub. L. 92-303 provided that: "The amendments made by this section [amending sections 901, 902, 921, 923 and 931 of this title] shall be effective as of December 30, 1969."

Amendment of subsecs. (c)(1), (2) by section 3(a) of Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 940 of this title.

§ 922. Payment of benefits

(a) Schedules

Subject to the provisions of subsection (b) of this section, benefit payments shall be made by the Secretary under this part as follows:

(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability at a rate equal to 50 per centum of the minimum monthly payment to which a Federal employee in grade GS-2, who is totally disabled, is entitled at the time of payment under chapter 81 of title 5.

(2) In the case of death of a miner due to pneumoconiosis or of a miner receiving benefits under this part, benefits shall be paid to his widow (if any) at the rate the deceased miner would receive such benefits if he were totally disabled.

(3) In the case of the child or children of a miner whose death is due to pneumoconiosis or of a miner who is receiving benefits under this part at the time of his death, or who was totally disabled by pneumoconiosis at the time of his death, and in the case of the child or children of a widow who is receiving benefits under this part at the time of her death, benefits shall be paid to such child or children as follows: If there is one such child, he shall be paid benefits at the rate specified in paragraph (1). If there is more than one such child, the benefits paid shall be divided equally among them and shall be paid at a rate equal to the rate specified in paragraph (1), increased by 50 per centum of such rate if there are two such children, by 75 per centum of such rate if there are three such children, and by 100 per centum of such rate if there are more than three such children: *Provided*, That benefits shall only be paid to a child for so long as he meets the criteria for the term "child" contained in section 902(g) of this title: *And provided further*, That no entitlement to benefits as a child shall be established under this paragraph (3) for any month for which entitlement to benefits as a widow is established under paragraph (2).

(4) In the case of an individual entitled to benefit payments under clause (1) or (2) of this subsection who has one or more dependents, the benefit payments shall be increased at the rate of 50 per centum of such benefit payments, if such individual has one dependent, 75 per centum if such individual has two dependents, and 100 per centum if such individual has three or more dependents.

(5) In the case of the dependent parent or parents of a miner whose death is due to pneumoconiosis, or of a miner who is receiving benefits under this part at the time of his death, or of a miner who was totally disabled by pneumoconiosis at the time of death, and who is not survived at the time of his death by a widow or a child, or in the case of the dependent surviving brother(s) or sister(s) of such a miner who is not survived at the time of his death by a widow, child, or parent, benefits shall be paid under this part to such parent(s), or to such brother(s), or sister(s), at the rate specified in paragraph (3) (as if such parent(s) or such brother(s) or sister(s), were the children of such miner). In determining for purposes of this paragraph whether a claimant bears the relationship as the miner's parent, brother, or sister, the Secretary shall apply legal standards consistent with those applicable to relationship determination under title II of the Social Security Act [42 U.S.C. 401 et seq.]. No benefits to a sister or brother shall be payable under this paragraph for any month beginning with the month in which he or she receives support from his or her spouse, or marries. Benefits shall be payable under this paragraph to a brother only if he is—

(1)(A) under eighteen years of age, or

(B) under a disability as defined in section 223(d) of the Social Security Act [42 U.S.C. 423(d)] which began before the age specified in section 202(d)(1)(B)(ii) of such Act [42 U.S.C. 402(d)(1)(B)(ii)], or in the case of a student, before he ceased to be a student, or

(C) a student as defined in section 902(g) of this title; or

(2) who is, at the time of the miner's death, disabled as determined in accordance with section 223(d) of the Social Security Act [42 U.S.C. 423(d)], during such disability. Any benefit under this paragraph for a month prior to the month in which a claim for such benefit is filed shall be reduced to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior months. As used in this paragraph, "dependent" means that during the one year period prior to and ending with such miner's death, such parent, brother, or sister was living in the miner's household, and was, during such period, totally dependent on the miner for support. Proof of such support shall be filed by such claimant within two years after May 1972, or within two years after the miner's death, whichever is the later. Any such proof which is filed after the expiration of such period shall be deemed to have been filed within such period if it is shown to the satisfaction of the Secretary that there was good cause for failure to file such proof within such period. The determination of what constitutes "living in the miner's household", "totally dependent upon the miner for support," and "good cause," shall for purposes of this paragraph be made in accordance with regulations of the Secretary. Benefit payments under this paragraph to a parent, brother, or sister, shall be reduced by the amount by which such payments would be reduced on account of excess earnings of such

parent, brother, or sister, respectively, under section 203(b)–(*l*) of the Social Security Act [42 U.S.C. 403(b)–(*l*)] as if the benefit under this paragraph were a benefit under section 202 of such Act [42 U.S.C. 402].

(6) If an individual's benefits would be increased under paragraph (4) of this subsection because he or she has one or more dependents, and it appears to the Secretary that it would be in the interest of any such dependent to have the amount of such increase in benefits (to the extent attributable to such dependent) certified to a person other than such individual, then the Secretary may, under regulations prescribed by him, certify the amount of such increase in benefits (to the extent so attributable) not to such individual but directly to such dependent or to another person for the use and benefit of such dependent; and any payment made under this clause, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

(b) Reduction of benefits

Notwithstanding subsection (a) of this section, benefit payments under this section to a miner or his widow, child, parent, brother, or sister shall be reduced, on a monthly or other appropriate basis, by an amount equal to any payment received by such miner or his widow, child, parent, brother, or sister under the workmen's compensation, unemployment compensation, or disability insurance laws of his State on account of the disability of such miner, and the amount by which such payment would be reduced on account of excess earnings of such miner under section 203(b) through (*l*) of the Social Security Act [42 U.S.C. 403(b) to (*l*)], if the amount paid were a benefit payable under section 202 of such Act [42 U.S.C. 402]. This part shall not be considered a workmen's compensation law or plan for purposes of section 224 of such Act [42 U.S.C. 424a].

(c) Reporting of income

Benefits payable under this part shall be deemed not to be income for purposes of the Internal Revenue Code of 1954.

(Pub. L. 91–173, title IV, § 412, Dec. 30, 1969, 83 Stat. 794; Pub. L. 92–303, §§ 1(b)(1), (2), (c)(1), 2(a), May 19, 1972, 86 Stat. 150, 151, 153.)

REFERENCES IN TEXT

Grade GS–2, referred to in subsec. (a)(1), is contained in the General Schedule which is set out under section 5332 of Title 5, Government Organization and Employees.

The Social Security Act, referred to in subsec. (a)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of this Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables volume.

The Internal Revenue Code of 1954, referred to in subsec. (c), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

1972—Subsec. (a)(3). Pub. L. 92-303, § 1(b)(1), added par. (3). Former par. (3) was redesignated as par. (4).

Subsec. (a)(4). Pub. L. 92-303, § 1(b)(1) redesignated former par. (3) as par. (4).

Subsec. (a)(5). Pub. L. 92-303, § 1(b)(2), added par. (5).

Subsec. (a)(6). Pub. L. 92-303, § 1(b)(2), added par. (6).

Subsec. (b). Pub. L. 92-303, §§ 1(c)(1), 2(a), substituted "widow, child, parent, brother, or sister" for "widow" wherever appearing, and added provision that this part would not be considered as a workmen's compensation law or plan for purposes of section 224 of such Act.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 2(b) of Pub. L. 92-303 provided that: "The amendment made by this section [amending subsec. (b) of this section] shall be effective as of December 30, 1969."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 924, 931, 932 of this title.

§ 923. Filing of notice of claim

(a) Promulgation of regulations; time requirement

Except as otherwise provided in section 924 of this title, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, 1973, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

(b) Applicability of sections 404 to 408, 421 and 423 of title 42; use of personnel and procedures; reimbursement of expenses

In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act [42 U.S.C. 423], but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of such Act [42 U.S.C. 421(a) to (d), (g)] shall be applicable. The provisions of sections 204, 205(a), (b), (d), (e), (f), (g), (h), (j), (k), and (*l*), 206, 207, and 208 of the Social Security Act [42 U.S.C. 404, 405(a), (b), (e), (f), (g), (h), (j), (k), (*l*), 406, 407, 408] shall be applicable under this part with respect to a miner, widow, child, parent, brother, sister, or dependent, as if benefits under this part were benefits under title II of such Act [42 U.S.C. 401 et seq.].

(c) Filing of claim for workmen's compensation; necessity; exceptions

No claim for benefits under this section shall be considered unless the claimant has also filed

a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

(Pub. L. 91-173, title IV, § 413, Dec. 30, 1969, 83 Stat. 794; Pub. L. 92-303, §§ 1(c)(5)(A), 4(f), 5(2), May 19, 1972, 86 Stat. 152, 154, 155.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of this Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables volume.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, § 5(2), substituted "1973" for "1972".

Subsec. (b). Pub. L. 92-303, §§ 1(c)(5)(A), 4(f), added provisions making sections 404 to 408 of title 42 applicable, and for a more liberal consideration of claims for benefits.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b) by section 4(f) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 921 of this title.

EFFECTIVE DATE FOR THE APPLICATION OF SECTION 405 OF TITLE 42

Section 1(c)(5)(B) of Pub. L. 92-303 provided that: "Only section 205(b), (g), and (h) of those sections of the Social Security Act [section 405(b), (g), and (h) of Title 42, The Public Health and Welfare] recited in subparagraph (A) of this paragraph [amending subsec. (b) of this section] shall be effective as of the date provided in subsection (d) of this section."

There is no subsec. (d) in section 1 of Pub. L. 92-303 as it was enacted. However, Senate Report No. 92-743, at page 30, refers to such a subsec. (d) applying the provisions of section of Pub. L. 92-303 retroactively to Dec. 30, 1969.

§ 924. Time for filing claims

(a) Claims filed before December 31, 1973

(1) No claim for benefits under this part on account of total disability of a miner shall be considered unless it is filed on or before December 31, 1973, or, in the case of a claimant who is a widow, within six months after the death of her husband or by December 31, 1973, whichever is the later.

(2) In the case of a claim by a child this paragraph shall apply notwithstanding any other provision of this part.

(A) If such claim is filed within six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from December 30, 1969, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from December 30, 1969, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(B) If such claim is filed after six months following May 1972, and if entitlement to benefits is established pursuant to such claim, such entitlement shall be effective retroactively from a date twelve months preceding the date such claim is filed, or from the date such child would have been first eligible for such benefit payments had section 922(a)(3) of this title been applicable since December 30, 1969, whichever is the lesser period. If on the date such claim is filed the claimant is not eligible for benefit payments, but was eligible at any period of time during the period from a date twelve months preceding the date such claim is filed, to the date such claim is filed, entitlement shall be effective for the duration of eligibility during such period.

(C) No claim for benefits under this part, in the case of a claimant who is a child shall be considered unless it is filed within six months after the death of his father or mother (whichever last occurred) or by December 31, 1973, whichever is the later.

(D) Any benefit under subparagraph (A) or (B) for a month prior to the month in which a claim is filed shall be reduced, to any extent that may be necessary, so that it will not render erroneous any benefit which, before the filing of such claim, the Secretary has certified for payment for such prior month.

(3) No claim for benefits under this part, in the case of a claimant who is a parent, brother, or sister shall be considered unless it is filed within six months after the death of the miner or by December 31, 1973, whichever is the later.

(b) Filing of claims after June 30, 1973

No benefits shall be paid under this part after December 31, 1973, if the claim therefor was filed after June 30, 1973.

(c) Effective date of claims

No benefits under this part shall be payable for any period prior to the date a claim therefor is filed.

(d) Reduction of State benefits

No benefits shall be paid under this part to the residents of any State which, after December 30, 1969, reduces the benefits payable to persons eligible to receive benefits under this part, under its State laws which are applicable to its general work force with regard to workmen's compensation, unemployment compensation, or disability insurance.

(e) Conditions upon payment

No benefits shall be payable to a widow, child, parent, brother, or sister under this part on account of the death of a miner unless (1) benefits under this part were being paid to such miner with respect to disability to pneumoconiosis prior to his death, or (2) the death of such miner occurred prior to January 1, 1974.

(Pub. L. 91-173, title IV, § 414, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§ 1(c)(1), (6), 5(1)-(3), May 19, 1972, 86 Stat. 151, 152, 155.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, §§ 1(c)(6), 5(2), designated existing provisions as par. (1) and added pars. (2) and (3), and in par. (1) substituted "1973" for "1972" wherever appearing.

Subsec. (b). Pub. L. 92-303, §§ 5(1), (2), substituted "June 30, 1973" for "December 31, 1971" and "December 31, 1973" for "December 31, 1971".

Subsec. (e). Pub. L. 92-303, §§ 1(c)(1), 5(3), substituted "widow, child, parent, brother, or sister" for "widow" and "1974" for "1973", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 923 of this title.

§ 925. Procedure for the determination of claims during transition period

(a) Notwithstanding any other provision in this subchapter, for the purpose of assuring the uninterrupted receipt of benefits by claimants at such time as responsibility for administration of the benefits program is assumed by either a State workmen's compensation agency or the Secretary of Labor, any claim for benefits under this part filed during the period from July 1, 1973 to December 31, 1973, shall be considered and determined in accordance with the procedures of this section. With respect to any such claim—

(1) Such claim shall be determined and, where appropriate under this part or section 934 of this title, benefits shall be paid with respect to such claim by the Secretary of Labor.

(2) The manner and place of filing such claim shall be in accordance with regulations issued jointly by the Secretary of Health, Education, and Welfare and the Secretary of Labor, which regulations shall provide, among other things, that such claims may be filed in district offices of the Social Security Administration and thereafter transferred to the jurisdiction of the Department of Labor for further consideration.

(3) The Secretary of Labor shall promptly notify any operator who he believes, on the basis of information contained in the claim, or any other information available to him, may be liable to pay benefits to the claimant under part C of this subchapter for any month after December 31, 1973.

(4) In determining such claims, the Secretary of Labor shall, to the extent appropriate, follow the procedures described in subsections (b), (c), and (d) of section 919 of title 33.

(5) Any operator who has been notified of the pendency of a claim under paragraph 4 of this subsection shall be bound by the determination of the Secretary of Labor on such claim as if the claim had been filed pursuant to part C of this subchapter and section 932 of this title had been applicable to such operator. Nothing in this paragraph shall require any operator to pay any benefits for any month prior to January 1, 1974.

(b) The Secretary of Labor, after consultation with the Secretary of Health, Education, and Welfare, may issue such regulations as are necessary or appropriate to carry out the purpose of this section.

(Pub. L. 91-173, title IV, § 415, as added Pub. L. 92-303, § 7, May 19, 1972, 86 Stat. 156.)

PART C—CLAIMS FOR BENEFITS AFTER DECEMBER 31, 1973

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 925 of this title.

§ 931. Benefits under State workmen's compensation laws

(a) Filing

On and after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis they shall be entitled to claim benefits under this part.

(b) Adequacy of compensation; listing of States providing adequate compensation; requisites for listing

(1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1972, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis;

(B) the amount of such cash benefits is substantially equivalent due to or greater than the amount of benefits prescribed by section 922(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to section 902(f) of this title and to those standards established under part B of this subchapter, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder;

(D) any claim for benefits on account of total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of the discovery of total disability due to pneumoconiosis, or the date of such death, as the case may be;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 932(i) of this title; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in sections 901 to 921 and 922 to 950 of title 33, which are applicable under section 932(a) of this title, but are not inconsistent with any

of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

(c) Publication in Federal Register; review of listings

Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the sixth month following the month in which such amendments are enacted.

(Pub. L. 91-173, title IV, § 421, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§ 1(c)(1), 4(e), 5(3), (5), May 19, 1972, 86 Stat. 151, 154, 155.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, §§ 1(c)(1), 5(3), substituted "widows, children, parents, brothers, or sisters, as the case may be," for "widows" and "1974" for "1973".

Subsec. (b)(2)(C). Pub. L. 92-303, § 4(e), substituted "section 902(f) of this title and to those standards established under part B of this subchapter" for "those established by section 921 of this title".

Subsec. (c). Pub. L. 92-303, § 5(5) added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsec. (b)(2)(C) by section 4(e) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 933 of this title.

§ 932. Failure to meet workmen's compensation requirements

(a) Benefits; applicability of Longshoremen's and Harbor Workers' Compensation Act; promulgation of regulations

During any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title, the provisions of sections 901 to 921 and 922 to 950 of title 33 (other than the provisions contained in sections 901, 902, 903, 904, 908, 909, 910, 912, 913, 929, 930, 931, 932, 933, 937, 938, 941, 943, 944, 945, 946, 947, 948, 948a, 949, and 950 thereof) shall (except as otherwise provided in this subsection and except as the Secretary shall by regulation otherwise provided), be applicable to each operator of a coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

(b) Liability of operators

During any such period each such operator shall be liable for and shall secure the payment of benefits, as provided in this section and section 933 of this title.

(c) Persons entitled to benefits

Benefits shall be paid during such period by each such operator under this section to the categories of persons entitled to benefits under section 922(a) of this title in accordance with the regulations of the Secretary and the Secretary of Health, Education, and Welfare applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefit shall be payable by any operator on account of death or total disability due to pneumoconiosis which did not arise, at least in part, out of employment in a mine during the period when it was operated by such operator.

(d) Monthly payments; amounts

Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 922(a) of this title.

(e) Conditions upon payment

No payment of benefits shall be required under this section:

(1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe;

(2) for any period prior to January 1, 1974; or

(3) for any period after twelve years after December 30, 1969.

(f) Limitation on filing of claims

(1) Any claim for benefits under this section shall be filed within three years of the discovery of total disability due to pneumoconiosis or, in the case of death due to pneumoconiosis, the date of such death.

(2) Any claim for benefits under this section in the case of a living miner filed on the basis of eligibility under section 921(c)(4) of this title, shall be filed within three years from the date of last exposed employment in a coal mine or, in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 921(c)(4) of this title, incurred as the result of employment in a coal mine, shall be filed within fifteen years from the date of last exposed employment in a coal mine.

(g) Reduction of monthly benefits

The amount of benefits payable under this section shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis.

(h) Applicability of regulations under section 921 of this title; promulgation of regulations

The regulations of the Secretary of Health, Education, and Welfare promulgated under section 921 of this title shall also be applicable to claims under this section. The Secretary of Labor shall by regulation establish standards, which may include appropriate presumptions, for determining whether pneumoconiosis arose out of employment in a particular coal mine or mines. The Secretary may also, by regulation, establish standards for apportioning liability for benefits under this subsection among more than one operator, where such apportionment is appropriate.

(i) Subsequent operators' liability for benefit payments

(1) During any period in which this section is applicable with respect to a coal mine an operator of such mine who, after December 30, 1969, acquired such mine or substantially all the assets thereof from a person (hereinafter referred to in this paragraph as a "prior operator") who was an operator of such mine on or after the operative date of this subchapter shall be liable for and shall, in accordance with section 933 of this title, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed in such mine if the acquisition had not occurred and the prior operator had continued to operate such mine.

(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

(Pub. L. 91-173, title IV, § 422, Dec. 30, 1969, 83 Stat. 796; Pub. L. 92-303, §§ 3(a), (b), 5(2)-(4), (9), 8, May 19, 1972, 86 Stat. 153, 155-157.)

REFERENCES IN TEXT

The operative date of this subchapter, referred to in subsec. (i), is Dec. 30, 1969.

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303, §§ 3(b), 5(2), (9), substituted "a coal mine" for "an underground coal mine", "1973" for "1972" and struck out reference to section 7 of Pub. L. 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), respectively.

Subsec. (e)(2). Pub. L. 92-303, § 5(3), substituted "January 1, 1974" for "January 1, 1973".

Subsec. (e)(3). Pub. L. 92-303, § 5(4), substituted "twelve years" for "seven years".

Subsec. (f). Pub. L. 92-303, § 8, designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 92-303, § 3(a), substituted "coal mine" for "underground coal mine".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment of subsecs. (h) and (a) by section 3(a), (b) of Pub. L. 92-303, respectively, effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 925, 931, 933, 934, 935 of this title.

§ 932a. Appointment of qualified individuals to hear and determine claims for benefits

Qualified individuals appointed by the Secretary of Labor may hear and determine claims for benefits under part C of title IV of the Federal Coal Mine Health and Safety Act of 1969 [30 U.S.C. 931 et seq.] and under section 415 of such Act [30 U.S.C. 925]. For purposes of this section, the term "qualified individual" means such an individual, regardless of whether that individual is a hearing examiner appointed under section 3105 of title 5. Nothing in this section shall be deemed to imply that there is or is not in effect any authority for such individuals to hear and determine such claims under any provision of law other than this section.

(Pub. L. 94-504, Oct. 15, 1976, 90 Stat. 2428.)

REFERENCES IN TEXT

The Federal Coal Mine Health and Safety Act of 1969, referred to in text, is Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, as amended. Part C of title IV of such Act is classified generally to this part (§ 931 et seq.). For complete classification of this Act to the Code, see Short Title note set out under section 801 of this title and Tables volume.

CODIFICATION

Section was not enacted as part of the Federal Coal Mine Health and Safety Act which comprises this chapter.

§ 933. Duties of operators in States not qualifying under workmen's compensation laws

(a) Securing of benefits for miners; self-insurers; mutual companies

During any period in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title each operator of a coal mine in such State shall secure the payment of benefits for which he is liable under section 932 of this title by (1) qualifying as a self-insurer in accordance with regulations prescribed by the Secretary, or (2) insuring and keeping insured the payment of such benefits with any stock company or mutual company or association, or with any other person or fund, including any State funds, while such company, association, person or fund is authorized under the laws of any State to insure workmen's compensation.

(b) Required provisions of insurance contracts

In order to meet the requirements of clause (2) of subsection (a) of this section, every policy or contract of insurance must contain—

(1) a provision to pay benefits required under section 932 of this title, notwithstanding the provisions of the State workmen's compensation law which may provide for lesser payments;

(2) a provision that insolvency or bankruptcy of the operator or discharge therein (or both) shall not relieve the carrier from liability for such payments; and

(3) such other provisions as the Secretary, by regulation, may require.

(c) Cancellation of insurance contracts

No policy or contract of insurance issued by a carrier to comply with the requirements of clause (2) of subsection (a) of this subsection shall be canceled prior to the date specified in such policy or contract for its expiration until at least thirty days have elapsed after notice of cancellation has been sent by registered or cer-

tified mail to the Secretary and to the operator at his last known place of business.

(Pub. L. 91-173, title IV, § 423, Dec. 30, 1969, 83 Stat. 797; Pub. L. 92-303, § 3(b), May 19, 1972, 86 Stat. 153.)

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-303 substituted "a coal mine" for "an underground coal mine".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92-303, set out as an Effective Date of 1972 Amendment note under section 901 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 932, 934 of this title.

§ 934. Failure of operators to secure benefits; duties of United States; indemnification

If a totally disabled miner or a widow, child, parent, brother, or sister is entitled to benefits under section 932 of this title and (1) an operator liable for such benefits has not obtained a policy or contract of insurance, or qualified as a self-insurer, as required by section 933 of this title, or such operator has not paid such benefits within a reasonable time, or (2) there is no operator who was required to secure the payment of such benefits, the Secretary shall pay such miner or such widow, child, parent, brother, or sister the benefits to which he or she is so entitled. In a case referred to in clause (1), the operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such miner or his widow, child, parent, brother, or sister under this subchapter.

(Pub. L. 91-173, title IV, § 424, Dec. 30, 1969, 83 Stat. 798; Pub. L. 92-303, § 1(c)(1), May 19, 1972, 86 Stat. 151.)

AMENDMENTS

1972—Pub. L. 92-303 substituted "widow, child, parent, brother, or sister" for "widow" wherever appearing therein.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 925 of this title.

§ 935. Utilization of services of State and local agencies

With the consent and cooperation of State agencies charged with administration of State workmen's compensation laws, the Secretary may, for the purpose of carrying out his functions and duties under section 932 of this title, utilize the services of State and local agencies and their employees and, notwithstanding any other provision of law, may advance funds to or reimburse such State and local agencies and their employees for services rendered for such purposes.

(Pub. L. 91-173, title IV, § 425, Dec. 30, 1969, 83 Stat. 798.)

§ 936. Regulations and reports

(a) Promulgation; applicability of section 553 of title 5

The Secretary of Labor and the Secretary of Health, Education, and Welfare are authorized to issue such regulations as each deems appropriate to carry out the provisions of this subchapter. Such regulations shall be issued in conformity with section 553 of title 5, notwithstanding subsection (a) thereof..

(b) Annual reports to Congress

Within 120 days following the convening of each session of Congress the Secretary of Health, Education, and Welfare shall submit to the Congress an annual report upon the subject matter of part B of this subchapter, and, after January 1, 1974, the Secretary of Labor shall also submit such a report upon the subject matter of this part.

(c) Compliance with State workmen's compensation laws; conflicts between State and Federal provisions

Nothing in this subchapter shall relieve any operator of the duty to comply with any State workmen's compensation law, except insofar as such State law is in conflict with the provisions of this subchapter and the Secretary by regulation, so prescribes. The provisions of any State workmen's compensation law which provide greater benefits than the benefits payable under this subchapter shall not thereby be construed or held to be in conflict with the provisions of this subchapter.

(Pub. L. 91-173, title IV, § 426, Dec. 30, 1969, 83 Stat. 798; Pub. L. 92-303, § 5(3), May 19, 1972, 86 Stat. 155.)

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-303 substituted "January 1, 1974" for "January 1, 1973".

§ 937. Contracts for clinics; research and grants for research in pulmonary diseases; appropriation of funds

(a) The Secretary of Health, Education, and Welfare is authorized to enter into contracts with, and make grants to, public and private agencies and organizations and individuals for the construction, purchase, and operation of fixed-site and mobile clinical facilities for the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners. The Secretary shall coordinate the making of such contracts and grants with the Appalachian Regional Commission.

(b) The Secretary of Health, Education, and Welfare shall initiate research within the National Institute for Occupational Safety and Health, and is authorized to make research grants to public and private agencies and organizations and individuals for the purpose of devising simple and effective tests to measure, detect, and treat respiratory and pulmonary impairments in active and inactive coal miners. Any grant made pursuant to this subsection shall be conditioned upon all information, uses, products, processes, patents, and other developments resulting from such research being available to the general public, except to the extent

of such exceptions and limitations as the Secretary of Health, Education, and Welfare may deem necessary in the public interest.

(c) There is hereby authorized to be appropriated for the purpose of subsection (a) of this section $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. There are hereby authorized to be appropriated for the purposes of subsection (b) of this section such sums as are necessary.

(Pub. L. 91-173, title IV, § 427, as added Pub. L. 92-303, § 5(6), May 19, 1972, 86 Stat. 155.)

§ 938. Miners suffering from pneumoconiosis; discrimination prohibited

(a) Mine operators

No operator shall discharge or in any other way discriminate against any miner employed by him by reason of the fact that such miner is suffering from pneumoconiosis. No person shall cause or attempt to cause an operator to violate this section. For the purposes of this subsection the term "miner" shall not include any person who has been found to be totally disabled.

(b) Determination by Secretary; procedure

Any miner who believes that he has been discharged or otherwise discriminated against by any person in violation of subsection (a) of this section, or any representative of such miner may, within ninety days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5. Each hearing examiner presiding under this section and under the provisions of subchapters I, II and III of this chapter shall receive compensation at a rate not less than that prescribed for GS-16 under section 5332 of title 5. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the miner to his former position with back pay. If he finds that there was no such violation, he shall issue an order denying the application. Such order shall incorporate the Secretary's findings therein.

(c) Costs and penalties

Whenever an order is issued under this subsection granting relief to a miner at the request of such miner, a sum equal to the aggregate amount of all costs and expenses (including the attorney's fees) as determined by the Secretary to have been reasonably incurred by such miner for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing the violation.

(Pub. L. 91-173, title IV, § 428, as added Pub. L. 92-303, § 5(7), May 19, 1972, 86 Stat. 155.)

§ 939. Authorization of appropriations

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary to carry out his responsibilities under this subchapter. Such sums shall remain available until expended.

(Pub. L. 91-173, title IV, § 429, as added Pub. L. 92-303, § 5(8), May 19, 1972, 86 Stat. 156.)

§ 940. Availability of benefits under Black Lung Benefits Act of 1972

The amendments made by the Black Lung Benefits Act of 1972 to part B of this subchapter shall, to the extent appropriate, also apply to this part: *Provided*, That for the purpose of determining the applicability of the presumption established by section 921(c)(4) of this title to claims filed under this part, no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed at least fifteen years in one or more underground mines.

(Pub. L. 91-173, title IV, § 430, as added Pub. L. 92-303, § 5(10), May 19, 1972, 86 Stat. 156.)

REFERENCES IN TEXT

The Black Lung Benefits Act of 1972, referred to in text, is Pub. L. 92-303, May 19, 1972, 86 Stat. 150, which is classified generally to sections 901, 902, 921 to 925, 931 to 934, and 936 to 941 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables volume.

§ 941. Notification to claimants of changes in law

The Secretary of Health, Education, and Welfare shall, upon enactment of the Black Lung Benefits Act of 1972, generally disseminate to all persons who filed claims under this subchapter prior to May 19, 1972, the changes in the law created by such Act, and forthwith advise all persons whose claims have been denied for any reason or whose claims are pending, that their claims will be reviewed with respect to the provisions of the Black Lung Benefits Act of 1972.

(Pub. L. 91-173, title IV, § 431, as added Pub. L. 92-303, § 6, May 19, 1972, 86 Stat. 156.)

REFERENCES IN TEXT

The Black Lung Benefits Act of 1972, referred to in text, is Pub. L. 92-303, May 19, 1972, 86 Stat. 150, which is classified generally to sections 901, 902, 921 to 925, 931 to 934, and 936 to 941 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 901 of this title and Tables volume.

SUBCHAPTER V—ADMINISTRATIVE PROVISIONS

§ 951. Studies and research

(a) Appropriate projects

The Secretary and the Secretary of Health, Education, and Welfare, as appropriate, shall

conduct such studies, research, experiments, and demonstrations as may be appropriate—

(1) to improve working conditions and practices in coal mines, and to prevent accidents and occupational diseases originating in the coal-mining industry;

(2) to develop new or improved methods of recovering persons in coal mines after an accident;

(3) to develop new or improved means and methods of communication from the surface to the underground area of a coal mine;

(4) to develop new or improved means and methods of reducing concentrations of respirable dust in the mine atmosphere of active workings of the coal mine;

(5) to develop epidemiological information to (A) identify and define positive factors involved in occupational diseases of miners, (B) provide information on the incidence and prevalence of pneumoconiosis and other respiratory ailments of miners, and (C) improve mandatory health standards;

(6) to develop techniques for the prevention and control of occupational diseases of miners, including tests for hypersusceptibility and early detection;

(7) to evaluate the effect on bodily impairment and occupational disability of miners afflicted with an occupational disease;

(8) to prepare and publish from time to time, reports on all significant aspects of occupational diseases of miners as well as on the medical aspects of injuries, other than diseases, which are revealed by the research carried on pursuant to this subsection;

(9) to study the relationship between coal mine environments and occupational diseases of miners;

(10) to develop new and improved underground equipment and other sources of power for such equipment which will provide greater safety; and

(11) for such other purposes as they deem necessary to carry out the purposes of this chapter.

(b) Duties of Secretary of the Interior and Secretary of Health, Education, and Welfare

Activities under this section in the field of coal mine health shall be carried out by the Secretary of Health, Education, and Welfare, and activities under this section in the field of coal mine safety shall be carried out by the Secretary.

(c) Contracting with and grants to public and private agencies; availability of information; exceptions

In carrying out the provisions for research, demonstrations, experiments, studies, training, and education under this section and sections 861(b) and 952(a) of this title, the Secretary and the Secretary of Health, Education, and Welfare may enter into contracts with, and make grants to, public and private agencies and organizations and individuals. No research, demonstrations, or experiments shall be carried out, contracted for, sponsored, cosponsored, or authorized under authority of this chapter, unless all information, uses, products, processes, patents, and other developments resulting from such research, demonstrations, or experiments will (with such exception and limitation, if any, as the Secretary or the Secretary of Health, Education, and Welfare may find to be necessary in the public interest) be available to the general public.

(d) Prevention of diseases affecting persons working with mine products

The Secretary of Health, Education, and Welfare shall also conduct studies and research into matters involving the protection of life and the prevention of diseases in connection with persons, who although not miners, work with, or around the products of, coal mines in areas outside of such mines and under conditions which may adversely affect the health and well-being of such persons.

(e) Authorization of appropriations

There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out his responsibilities under this section and section 861(b) of this title at an annual rate of not to exceed $20,000,000 for the fiscal year ending June 30, 1970, $25,000,000 for the fiscal year ending June 30, 1971, and $30,000,000 for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter. There is authorized to be appropriated annually to the Secretary of Health, Education, and Welfare such sums as may be necessary to carry out his responsibilities under this chapter. Such sums shall remain available until expended.

(f) Exceptions to mandatory health and safety standards for improving techniques and equipment

The Secretary is authorized to grant on a mine-by-mine basis an exception to any mandatory health or safety standard under this chapter for the purpose of permitting, under such terms and conditions as he may prescribe, accredited educational institutions the opportunity for experimenting with new and improved techniques and equipment to improve the health and safety of miners. No such exception shall be granted unless the Secretary finds that the granting of the exception will not adversely affect the health and safety of miners and publishes his findings.

(g) Grants for research and development of respiratory equipment

The Secretary of Health, Education, and Welfare is authorized to make grants to any public or private agency, institution, or organization, and operators or individuals for research and experiments to develop effective respiratory equipment.

(Pub. L. 91-173, title V, § 501, Dec. 30, 1969, 83 Stat. 798.)

EFFECTIVE DATE

Subchapter effective Dec. 30, 1969, see section 509 of Pub. L. 91-173, Dec. 30, 1969, 83 Stat. 742, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 958 of this title.

§ 952. Safety training and educational programs

(a) The Secretary shall expand programs for the education and training of operators and agents thereof, and miners in—

(1) the recognition, avoidance, and prevention of accidents or unsafe or unhealthful working conditions in coal mines; and

(2) in the use of flame safety lamps, permissible methane detectors, and other means approved by the Secretary for detecting methane and other explosive gases accurately.

(b) The Secretary shall, to the greatest extent possible, provide technical assistance to operators in meeting the requirements of this chapter and in further improving the health and safety conditions and practices in coal mines.

(Pub. L. 91-173, title V, § 502, Dec. 30, 1969, 83 Stat. 800.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 951 of this title.

§ 953. Assistance to States

(a) Development and enforcement of health and safety regulations; improvement of workmen's compensation and occupational disease laws; promotion of Federal-State coordination in mine safety

The Secretary, in coordination with the Secretary of Health, Education, and Welfare and the Secretary of Labor, is authorized to make grants in accordance with an application approved under this section to any State in which coal mining takes place—

(1) to assist such State in developing and enforcing effective coal mine health and safety laws and regulations consistent with the provisions of section 955 of this title;

(2) to improve State workmen's compensation and occupational disease laws and programs related to coal mine employment; and

(3) to promote Federal-State coordination and cooperation in improving the health and safety conditions in the coal mines.

(b) Application for grants; contents

The Secretary shall approve any application or any modification thereof, submitted under this section by a State, through its official coal mine inspection or safety agency, which—

(1) sets forth the programs, policies, and methods to be followed in carrying out the application in accordance with the purposes of subsection (a) of this section;

(2) provides research and planning studies to carry out plans designed to improve State workmen's compensation and occupational disease laws and programs, as they relate to compensation to miners for occupationally caused diseases and injuries arising out of employment in any coal mine;

(3) designates such State coal mine inspection or safety agency as the sole agency responsible for administering grants under this section throughout the State, and contains satisfactory evidence that such agency will have the authority to carry out the purposes of this section;

(4) gives assurances that such agency has or will employ an adequate and competent staff of trained inspectors qualified under the laws of such State to make coal mine inspections within such State;

(5) provides for the extension and improvement of the State program for the improvement of coal mine health and safety in the State, and provides that no advance notice of an inspection will be provided anyone;

(6) provides such fiscal control and fund accounting procedures as may be appropriate to assure proper disbursement and accounting of grants made to the States under this section;

(7) provides that the designated agency will make such reports to the Secretary in such form and containing such information as the Secretary may from time to time require;

(8) contains assurances that grants provided under this section will supplement, not supplant, existing State coal mine health and safety programs; and

(9) meets additional conditions which the Secretary may prescribe in furtherance of, and consistent with, the purposes of this section.

(c) Approval by Secretary; notice and hearing

The Secretary shall not finally disapprove any State application or modification thereof without first affording the State agency reasonable notice and opportunity for a public hearing.

(d) Review by Court of Appeals; conclusiveness of findings of Secretary; filing of petition

Any State aggrieved by a decision of the Secretary under subsection (b) or (c) of this section may file within thirty days from the date of such decision with the United States Court of Appeals for the District of Columbia a petition praying that such action be modified or set aside in whole or in part. The court shall hear such appeal on the record made before the Secretary. The decision of the Secretary incorporating his findings of fact therein, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or remand the proceedings to the Secretary for such further action as it directs. The filing of a petition under this subsection shall not stay the application of the decision of the Secretary, unless the court so orders. The provisions of section 816(a), (b), and (c) of this title shall not be applicable to this section.

(e) Programs to train State inspectors

Any State application or modification thereof submitted to the Secretary under this section may include a program to train State inspectors.

(f) Cooperation in implementation of programs; exchange of reports between States

The Secretary shall cooperate with such State in carrying out the application or modification thereof and shall, as appropriate, develop and, where appropriate, construct facilities for, and finance a program of, training of Federal and State inspectors jointly. The Secretary shall also cooperate with such State in establishing a system by which State and Federal inspection reports of coal mines located in the State are exchanged for the purpose of improving health and safety conditions in such mines.

(g) Limitation on grants

The amount granted to any coal mining State for a fiscal year under this section shall not exceed 80 per centum of the amount expended by such State in such year for carrying out such application.

(h) Authorization of appropriations

There is authorized to be appropriated $3,000,000 for fiscal year 1970, and $5,000,000 annually in each succeeding fiscal year to carry out the provisions of this section, which shall remain available until expended. The Secretary shall provide for an equitable distribution of sums appropriated for grants under this section to the States where there is an approved application.

(Pub. L. 91-173, title V, § 503, Dec. 30, 1969, 83 Stat. 800.)

§ 954. Appointment of administrative personnel and inspectors; qualifications; training programs

The Secretary may, subject to the civil service laws, appoint such employees as he deems requisite for the administration of this chapter and prescribe their duties. Persons appointed as authorized representatives of the Secretary shall be qualified by practical experience in the mining of coal or by experience as a practical mining engineer or by education. Persons appointed to assist such representatives in the taking of samples of respirable dust for the purpose of enforcing subchapter II of this chapter shall be qualified by training, experience, or education. The provisions of section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270) shall not apply with respect to the appointment of such authorized representatives of the Secretary or to persons appointed to assist such representatives and to carry out the provisions of this chapter, and, in applying the provisions of such section to other agencies under the Secretary and to other agencies of the Government, such appointed persons shall not be taken into account. Such persons shall be adequately trained by the Secretary. The Secretary shall develop programs with educational institutions and operators designed to enable persons to qualify for positions in the administration of this chapter. In selecting persons and training and retraining persons to carry out the provisions of this chapter, the Secretary shall work with appropriate educational institutions, operators, and representatives of miners in developing and maintaining adequate programs for the training and continuing education of persons, particularly inspectors, and where appropriate, the Secretary shall cooperate with such institutions in carrying out the provisions of this section by providing financial and technical assistance to such institutions.

(Pub. L. 91-173, title V, § 505, Dec. 30, 1969, 83 Stat. 802.)

REFERENCES IN TEXT

The civil service laws, referred to in text, are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

Section 201 of the Revenue and Expenditure Control Act of 1968 (82 Stat. 251, 270), referred to in text, which was set out as a note under section 3101 of Title 5 Government Organization and Employees, was repealed by Pub. L. 91-47, title 5, § 503, July 22, 1969, 83 Stat. 83.

§ 955. State laws

(a) No State law in effect on December 30, 1969 or which may become effective thereafter shall be superseded by any provision of this chapter or order issued or any mandatory health or safety standard, except insofar as such State law is in conflict with this chapter or with any order issued or any mandatory health or safety standard.

(b) The provisions of any State law or regulation in effect upon the operative date of this chapter, or which may become effective thereafter, which provide for more stringent health and safety standards applicable to coal mines than do the provisions of this chapter or any order issued or any mandatory health or safety standard shall not thereby be construed or held to be in conflict with this chapter. The provisions of any State law or regulation in effect December 30, 1969, or which may become effective thereafter, which provide for health and safety standards applicable to coal mines for which no provision is contained in this chapter or in any order issued or any mandatory health or safety standard, shall not be held to be in conflict with this chapter.

(Pub. L. 91-173, title V, § 506, Dec. 30, 1969, 83 Stat. 803.)

REFERENCES IN TEXT

For the operative date of this chapter, referred to in subsec. (b), see section 509 of Pub. L. 91-173, set out as an Effective Date note under section 801 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 953 of this title.

§ 956. Applicability of administrative procedure provisions

Except as otherwise provided in this chapter, the provisions of sections 551 to 559 and sections 701 to 706 of title 5 shall not apply to the making of any order, notice, or decision made pursuant to this chapter, or to any proceeding for the review thereof.

(Pub. L. 91-173, title V, § 507, Dec. 30, 1969, 83 Stat. 803.)

§ 957. Promulgation of regulations

The Secretary, the Secretary of Health, Education, and Welfare, and the Panel are authorized to issue such regulations as each deems appropriate to carry out any provision of this chapter.

(Pub. L. 91-173, title V, § 508, Dec. 30, 1969, 83 Stat. 803.)

§ 958. Annual reports to Congress; contents

(a) Within one hundred and twenty days following the convening of each session of Congress the Secretary shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the subject matter of this chapter, the progress concerning the achievement of its purposes, the needs and requirements in the field of coal mine health and safety, the amount and status of each loan made pursuant to this chapter, a description and the anticipated cost of each project and program he has undertaken under sections 861(b) and 951 of this title, and any

other relevant information, including any recommendations he deems appropriate.

(b) Within one hundred and twenty days following the convening of each session of Congress, the Secretary of Health, Education, and Welfare shall submit through the President to the Congress and to the Office of Science and Technology an annual report upon the health matters covered by this chapter, including the progress toward the achievement of the health purposes of this chapter, the needs and requirements in the field of coal mine health, a description and the anticipated cost of each project and program he has undertaken under sections 861(b) and 951 of this title and any other relevant information, including any recommendations he deems appropriate. The first such report shall include the recommendations of the Secretary of Health, Education, and Welfare as to necessary mandatory health standards, including his recommendations as to the maximum permissible individual exposure to miners from respirable dust during a shift.

(Pub. L. 91-173, title V, § 511, Dec. 30, 1969, 83 Stat. 803.)

TRANSFER OF FUNCTIONS

All functions vested by law in the Office of Science and Technology and in the Director or Deputy Director of the Office of Science and Technology were transferred to the Director of the National Science Foundation, and the Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorg. Plan No. 2 of 1962, eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, was abolished by sections 2 and 3(a)(5) of Reorg. Plan No. 1 of 1973, eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089 set out in the Appendix to Title 5, Government Organization and Employees.

§ 959. Study of coordination of Federal and State activities; report

(a) The Secretary shall make a study to determine the best manner to coordinate Federal and State activities in the field of coal mine health and safety so as to achieve (1) maximum health and safety protection for miners, (2) an avoidance of duplication of effort, (3) maximum effectiveness, (4) a reduction of delay to a minimum, and (5) most effective use of Federal inspectors.

(b) The Secretary shall make a report of the results of his study to the Congress as soon as practicable after December 30, 1969.

(Pub. L. 91-173, title V, § 512, Dec. 30, 1969, 83 Stat. 804.)

§ 960. Limitation on issuance of temporary restraining order or preliminary injunction

In any proceeding in which the validity of any interim mandatory health or safety standard set forth in subchapter II and III of this chapter is in issue, no justice, judge, or court of the United States shall issue any temporary restraining order or preliminary injunction restraining the enforcement of such standard pending a determination of such issue on its merits.

(Pub. L. 91-173, title V, § 513, Dec. 30, 1969, 83 Stat. 804.)

CHAPTER 23—GEOTHERMAL STEAM AND ASSOCIATED GEOTHERMAL RESOURCES

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§ 1001. Definitions

As used in this chapter, the term—

(a) "Secretary" means the Secretary of the Interior;

(b) "geothermal lease" means a lease issued under authority of this chapter;

(c) "geothermal steam and associated geothermal resources" means (i) all products of geothermal processes, embracing indigenous steam, hot water and hot brines; (ii) steam and other gases, hot water and hot brines resulting from water, gas, or other fluids artificially introduced into geothermal formations; (iii) heat or other associated energy found in geothermal formations; and (iv) any byproduct derived from them;

(d) "byproduct" means any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) which are found in solution or in association with geothermal steam and which have a value of less than 75 per centum of the value of the geothermal steam or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(e) "known geothermal resources area" means an area in which the geology, nearby discoveries, competitive interests, or other indicia would, in the opinion of the Secretary, engender a belief in men who are experienced in the subject matter that the prospects for extraction of geothermal steam or associated geothermal resources are good enough to warrant expenditures of money for that purpose.

(Pub. L. 91-581, § 2, Dec. 24, 1970, 84 Stat. 1566.)

Short Title

Section 1 of Pub. L. 91-581 provided: "That this Act [which enacted this chapter and amended section 530 of this title] may be cited as the 'Geothermal Steam Act of 1970'."

Section Referred to in Other Sections

This section is referred to in section 1005 of this title.

§ 1002. Lands subject to geothermal leasing

Subject to the provisions of section 1014 of this title, the Secretary of the Interior may issue leases for the development and utilization of geothermal steam and associated geothermal resources (1) in lands administered by him, including public, withdrawn, and acquired lands, (2) in any national forest or other lands administered by the Department of Agriculture through the Forest Service, including public, withdrawn, and acquired lands, and (3) in lands which have been conveyed by the United States subject to a reservation to the United States of the geothermal steam and associated geothermal resources therein.

(Pub. L. 91-581, § 3, Dec. 24, 1970, 84 Stat. 1566.)

Section Referred to in Other Sections

This section is referred to in section 1024 of this title.

§ 1003. Bids; competitive bidding; first application of qualified person without competitive bidding

If lands to be leased under this chapter are within any known geothermal resources area, they shall be leased to the highest responsible qualified bidder by competitive bidding under regulations formulated by the Secretary. If the lands to be leased are not within any known geothermal resources area, the qualified person first making application for the lease shall be entitled to a lease of such lands without competitive bidding. Notwithstanding the foregoing, at any time within one hundred and eighty days following December 24, 1970:

(a) Conversion to geothermal lease

With respect to all lands which were on September 7, 1965, subject to valid leases or permits issued under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), or under the Mineral Leasing Act of Acquired Lands, as amended (30 U.S.C. 351, 358), or to existing mining claims located on or prior to September 7, 1965, the lessees or permittees or claimants or their successors in interest who are qualified to hold geothermal leases shall have the right to convert such leases or permits or claims to geothermal leases covering the same lands;

(b) Consideration of first person in conflicting land interests

Where there are conflicting claims, leases, or permits therefor embracing the same land, the person who first was issued a lease or permit, or who first recorded the mining claim shall be entitled to first consideration;

(c) Conversion to application for geothermal lease

With respect to all lands which were on September 7, 1965, the subject of applications for leases or permits under the above Acts, the applicants may convert their applications to applications for geothermal leases having priorities dating from the time of filing of such applications under such Acts;

(d) Acreage limitation

No person shall be permitted to convert mineral leases, permits, applications therefor, or mining claims for more than 10,240 acres; and

(e) Regulations; substantial expenditures for exploration, development, or production of geothermal steam requisite for conversion

The conversion of leases, permits, and mining claims and applications for leases and permits shall be accomplished in accordance with regulations prescribed by the Secretary. No right to conversion to a geothermal lease shall accrue to any person under this section unless such person shows to the reasonable satisfaction of the Secretary that substantial expenditures for the exploration, development, or production of geothermal steam have been made by the applicant who is seeking conversion, on the lands for which a lease is sought or on adjoining, adjacent, or nearby Federal or non-Federal lands.

(f) Competitive geothermal lease; time for payment of highest bid and first year rental

With respect to lands within any known geothermal resources area and which are subject to a right to conversion to a geothermal lease, such lands shall be leased by competitive bidding: *Provided*, That, the competitive geothermal lease shall be issued to the person owning the right to conversion to a geothermal lease if he makes payment of an amount equal to the highest bona fide bid for the competitive geothermal lease, plus the rental for the first year, within thirty days after he receives written notice from the Secretary of the amount of the highest bid.

(Pub. L. 91-581, § 4, Dec. 24, 1970, 84 Stat. 1566.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, referred to in subsec. (a), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

The Mineral Leasing Act of Acquired Lands, referred to in subsec. (a), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1006 of this title.

§ 1004. Rents and royalties

Geothermal leases shall provide for—

(a) Royalty provision for percentage of amount or value of steam or other form of heat or energy

A royalty of not less than 10 per centum or more than 15 per centum of the amount or value of steam, or any other form of heat or energy derived from production under the lease and sold or utilized by the lessee or reasonably susceptible to sale or utilization by the lessee;

(b) Royalty provision for percentage of value of byproduct; rate for certain mineral byproducts

A royalty of not more than 5 per centum of the value of any byproduct derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the lessee, except that as to any byproduct which is a mineral named in section 1 of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181), the rate of royalty for such mineral shall be the same as that provided in that Act [30 U.S.C. 181 et seq.] and the maximum rate of royalty for such mineral shall not exceed the maximum royalty applicable under that Act;

(c) Annual rental; advance payment; amount; termination of lease for nonpayment; deficiency payments: notice and payment of deficiency; reinstatement of lease: reasons and conditions

Payment in advance of an annual rental of not less than $1 per acre or fraction thereof for each year of the lease. If there is no well on the leased lands capable of producing geothermal resources in commercial quantities, the failure to pay rental on or before the anniversary date shall terminate the lease by operation of law: *Provided, however*, That whenever the Secretary discovers that the rental payment due under a lease is paid timely but the amount of the payment is deficient because of an error or other reason and the deficiency is nominal, as determined by the Secretary pursuant to regulations prescribed by him, he shall notify the lessee of the deficiency and such lease shall not automatically terminate unless the lessee fails to pay the deficiency within the period prescribed in the notice: *Provided further*, That, where any lease has been terminated automatically by operation of law under this section for failure to pay rental timely and it is shown to the satisfaction of the Secretary of

the Interior that the failure to pay timely the lease rental was justifiable or not due to a lack of reasonable diligence, he in his judgment may reinstate the lease if—

(1) a petition for reinstatement, together with the required rental, is filed with the Secretary of the Interior; and

(2) no valid lease has been issued affecting any of the lands in the terminated lease prior to the filing of the petition for reinstatement; and

(d) Royalties in lieu of rentals for producing leases; amount; initial payment; value of unsold geothermal steam and byproducts: consideration of exploration and production costs and use value

A minimum royalty of $2 per acre or fraction thereof in lieu of rental payable at the expiration of each lease year for each producing lease, commencing with the lease year beginning on or after the commencement of production in commercial quantities. For the purpose of determining royalties hereunder the value of any geothermal steam and byproduct used by the lessee and not sold and reasonably susceptible of sale shall be determined by the Secretary, who shall take into consideration the cost of exploration and production and the economic value of the resource in terms of its ultimate utilization.

(Pub. L. 91-581, § 5, Dec. 24, 1970, 84 Stat. 1567.)

REFERENCES IN TEXT

That Act, referred to in subsec. (b), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, known as the Mineral Leasing Act, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

§ 1005. Duration of leases

(a) Primary and continuation terms

Geothermal leases shall be for a primary term of ten years. If geothermal steam is produced or utilized in commercial quantities within this term, such lease shall continue for so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional forty years.

(b) Renewal

If, at the end of such forty years, steam is produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second forty-year term in accordance with such terms and conditions as the Secretary deems appropriate.

(c) Cooperative or unit plan for drilling operations; extension of term; renewal

Any lease for land on which, or for which under an approved cooperative or unit plan of development or operation, actual drilling operations were commenced prior to the end of its primary term and are being diligently prosecuted at that time shall be extended for five years and so long thereafter, but not more than thirty-five years, as geothermal steam is produced or utilized in commercial quantities. If, at the end of such extended term, steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate.

(d) Commercial production or utilization of geothermal steam as including completion of producing wells and bona fide sales for facilities scheduled for future installation

For purposes of subsection (a) of this section, production or utilization of geothermal steam in commercial quantities shall be deemed to include the completion of one or more wells producing or capable of producing geothermal steam in commercial quantities and a bona fide sale of such geothermal steam for delivery to or utilization by a facility or facilities not yet installed but scheduled for installation not later than fifteen years from the date of commencement of the primary term of the lease.

(e) Extension of term for byproduct production; conversion of geothermal lease to mineral lease: application, time for completion of location of mineral claims, and Federal agency terms and conditions when conversion affects lands withdrawn or acquired for Federal agency

Leases which have extended by reasons of production, or which have produced geothermal steam, and have been determined by the Secretary to be incapable of further commercial production and utilization of geothermal steam may be further extended for a period of not more than five years from the date of such determination but only for so long as one or more valuable byproducts are produced in commercial quantities. If such byproducts are leasable under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181, et seq.), or under the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351-358), and the leasehold is primarily valuable for the production thereof, the lessee shall be entitled to convert his geothermal lease to a mineral lease under, and subject to all the terms and conditions of, such appropriate Act upon application at any time before expiration of the lease extension by reason of byproduct production. The lessee shall be entitled to locate under the mining laws all minerals which are not leasable and which would constitute a byproduct if commercial production or utilization of geothermal steam continued. The lessee in order to acquire the rights herein granted him shall complete the location of mineral claims within ninety days after the termination of the lease for geothermal steam. Any such converted lease or the surface of any mining claim located for geothermal byproducts mineral affecting lands withdrawn or acquired in aid of a function of a Federal department or agency, including the Department of the Interior, shall be subject to such additional terms and conditions as may be prescribed by such department or agency with respect to the additional operations or effects resulting from such conversion upon adequate utilization of the lands for the purpose for which they are administered.

(f) Principles for location of minerals under mining laws when minerals are not associated with geothermal resources

Minerals locatable under the mining laws of the United States in lands subject to a geothermal lease issued under the provisions of this chapter which are not associated with the geothermal steam and associated geothermal resources of such lands as defined in section 1001(c) of this title shall be locatable under said mining laws in accordance with the principles of the Multiple Mineral Development Act (68 Stat. 708; found in 30 U.S.C. 521 et seq.).

(Pub. L. 91-581, § 6, Dec. 24, 1970, 84 Stat. 1568.)

REFERENCES IN TEXT

The Mineral Leasing Act of February 25, 1920, referred to in subsec. (e), is act Feb. 25, 1920, ch. 85, 41 Stat. 437, as amended, which is classified generally to subchapters I to VII (§ 181 et seq.) of chapter 3A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 181 of this title and Tables volume.

The Mineral Leasing Act for Acquired Lands, referred to in subsec. (e), is act Aug. 7, 1947, ch. 513, 61 Stat. 913, as amended, which is classified generally to chapter 7 (§ 351 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 351 of this title and Tables volume.

The mining laws of the United States, referred to in subsec. (f), are classified generally to this title.

The Multiple Mineral Development Act, referred to in subsec. (f), is act Aug. 13, 1954, ch. 730, 68 Stat. 708, as amended, which is classified principally to chapter 12 (§ 521 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 521 of this title and Tables volume.

§ 1006. Acreage of geothermal lease; irregular subdivisions; State limitation; increase

A geothermal lease shall embrace a reasonably compact area of not more than two thousand five hundred and sixty acres, except where a departure therefrom is occasioned by an irregular subdivision or subdivisions. No person, association, or corporation, except as otherwise provided in this chapter, shall take, hold, own, or control at one time, whether acquired directly from the Secretary under this chapter or otherwise, any direct or indirect interest in Federal geothermal leases in any one State exceeding twenty thousand four hundred and eighty acres, including leases acquired under the provisions of section 1003 of this title.

At any time after fifteen years from December 24, 1970, the Secretary, after public hearings, may increase this maximum holding in any one State by regulation, not to exceed fifty-one thousand two hundred acres.

(Pub. L. 91-581, § 7, Dec. 24, 1970, 84 Stat. 1569.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1017 of this title.

§ 1007. Readjustment of lease terms and conditions

(a) Initial readjustment; periodic intervals; notice; objections, relinquishment, and termination

The Secretary may readjust the terms and conditions, except as otherwise provided herein, of any geothermal lease issued under this chapter at not less than ten-year intervals beginning ten years after the date the geothermal steam is produced, as determined by the Secretary. Each geothermal lease issued under this chapter shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of terms and conditions, and, unless the lessee files with the Secretary objection to the proposed terms or relinquishes the lease within thirty days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(b) Rentals and royalties; initial readjustment; periodic intervals; limitation on increases and on royalties; notice; objections, relinquishment, and termination

The Secretary may readjust the rentals and royalties of any geothermal lease issued under this chapter at not less than twenty-year intervals beginning thirty-five years after the date geothermal steam is produced, as determined by the Secretary. In the event of any such readjustment neither the rental nor royalty may be increased by more than 50 per centum over the rental or royalty paid during the preceding period, and in no event shall the royalty payable exceed 22½ per centum. Each geothermal lease issued under this chapter shall provide for such readjustment. The Secretary shall give notice of any proposed readjustment of rentals and royalties, and, unless the lessee files with the Secretary objections to the proposed rentals and royalties or relinquishes the lease within thirty days after receipt of such notice, the lessee shall conclusively be deemed to have agreed with such terms and conditions. If the lessee files objections, and no agreement can be reached between the Secretary and the lessee within a period of not less than sixty days, the lease may be terminated by either party.

(c) Surface use, protection, or restoration of lands withdrawn or acquired for Federal agency; notice; approval of agency

Any readjustment of the terms and conditions as to use, protection, or restoration of the surface of any lease of lands withdrawn or acquired in aid of a function of a Federal department or agency other than the Department of the Interior may be made only upon notice to, and with the approval of, such department or agency.

(Pub. L. 91-581, § 8, Dec. 24, 1970, 84 Stat. 1569.)

§ 1008. Byproducts: production or use; water for beneficial uses under State water laws; substantial beneficial production or use; modification or waiver; preexisting rights of lease, claim, or permit holders

If the production, use, or conversion of geothermal steam is susceptible of producing a valuable byproduct or byproducts, including commercially demineralized water for beneficial uses in accordance with applicable State water laws, the Secretary shall require substantial beneficial production or use thereof unless, in individual circumstances he modifies or waives this requirement in the interest of conservation of natural resources or for other rea-

sons satisfactory to him. However, the production of use of such byproducts shall be subject to the rights of the holders of preexisting leases, claims, or permits covering the same land or the same minerals, if any.

(Pub. L. 91-581, § 9, Dec. 24, 1970, 84 Stat. 1570.)

§ 1009. Relinquishment of geothermal rights; effective date; release of lessee or his surety or bond; exceptions

The holder of any geothermal lease at any time may make and file in the appropriate land office a written relinquishment of all rights under such lease or of any legal subdivision of the area covered by such lease. Such relinquishment shall be effective as of the date of its filing. Thereupon the lessee shall be released of all obligations thereafter accruing under said lease with respect to the lands relinquished, but no such relinquishment shall release such lessee, or his surety or bond, from any liability for breach of any obligation of the lease, other than an obligation to drill, accrued at the date of the relinquishment, or from the continued obligation, in accordance with the acceptable lease terms and regulations, (1) to make payment of all accrued rentals and royalties, (2) to place all wells on the relinquished lands in condition for suspension or abandonment, and (3) to protect or restore substantially the surface and surface resources.

(Pub. L. 91-581, § 10, Dec. 24, 1970, 84 Stat. 1570.)

§ 1010. Suspension of operations and production; extension of lease term for period of suspension; waiver, suspension or reduction of rental or royalty

The Secretary, upon application by the lessee, may authorize the lessee to suspend operations and production on a producing lease and he may, on his own motion, in the interest of conservation suspend operations on any lease but in either case he may extend the lease term for the period of any suspension, and he may waive, suspend, or reduce the rental or royalty required in such lease.

(Pub. L. 91-581, § 11, Dec. 24, 1970, 84 Stat. 1570.)

§ 1011. Termination of leases; grounds; notice; correction of violations; hearing; correction period after administrative decision

Leases may be terminated by the Secretary for any violation of the regulations or lease terms after thirty days notice provided that such violation is not corrected within the notice period, or in the event the violation is such that it cannot be corrected within the notice period then provided that lessee has not commenced in good faith within said notice period to correct such violation and thereafter to proceed diligently to correct such violation. Lessee shall be entitled to a hearing on the matter of such claimed violation or proposed termination of lease if request for a hearing is made to the Secretary within the thirty-day period after notice. The period for correction of violation or commencement to correct such violation of regulations or of lease terms, as aforesaid, shall be extended to thirty days after the Secretary's decision after such hearing if the Secretary shall find that a violation exists.

(Pub. L. 91-581, § 12, Dec. 24, 1970, 84 Stat. 1570.)

§ 1012. Waiver, suspension, or reduction of rental or royalty

The Secretary may waive, suspend, or reduce the rental or royalty for any lease or portion thereof in the interests of conservation and to encourage the greatest ultimate recovery of geothermal resources, if he determines that this is necessary to promote development or that the lease cannot be successfully operated under the lease terms.

(Pub. L. 91-581, § 13, Dec. 24, 1970, 84 Stat. 1570.)

§ 1013. Surface land use for production, utilization, and conservation of geothermal resources

Subject to the other provisions of this chapter, a lessee shall be entitled to use so much of the surface of the land covered by his geothermal lease as may be found by the Secretary to be necessary for the production, utilization, and conservation of geothermal resources.

(Pub. L. 91-581, § 14, Dec. 24, 1970, 84 Stat. 1571.)

§ 1014. Lands subject to geothermal leasing

(a) Terms and conditions for lands withdrawn or acquired for Department of the Interior

Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of the Interior may be issued only under such terms and conditions as the Secretary may prescribe to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired.

(b) Consent and terms and conditions for lands withdrawn or acquired for Department of Agriculture or for lands for power and related purposes

Geothermal leases for lands withdrawn or acquired in aid of functions of the Department of Agriculture may be issued only with the consent of, and subject to such terms and conditions as may be prescribed by, the head of that Department to insure adequate utilization of the lands for the purposes for which they were withdrawn or acquired. Geothermal leases for lands to which section 818 of title 16 is applicable, may be issued only with the consent of, and subject to, such terms and conditions as the Federal Power Commission may prescribe to insure adequate utilization of such lands for power and related purposes.

(c) Exemption of certain Federal lands

Geothermal leases under this chapter shall not be issued for lands administered in accordance with (1) sections 1 and 2 to 4 of title 16, as amended or supplemented, (2) for lands within a national recreation area, (3) for lands in a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, game range, wildlife management area, waterfowl production area, or for lands acquired or reserved for the protection and conservation of fish and wildlife that are threatened with extinction, (4) for tribally or individually owned Indian trust

or restricted lands, within or without the boundaries of Indian reservations.

(Pub. L. 91-581, § 15, Dec. 24, 1970, 84 Stat. 1571.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1002 of this title.

§ 1015. Citizenship requirement for lessees

Leases under this chapter may be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States or of any State or the District of Columbia, or governmental units, including, without limitation, municipalities.

(Pub. L. 91-581, § 16, Dec. 24, 1970, 84 Stat. 1571.)

§ 1016. Administration; multiple use of lands and resources; coexistence of other leases; reciprocal and reasonable operational interference between geothermal and other leases

Administration of this chapter shall be under the principles of multiple use of lands and resources, and geothermal leases shall, insofar as feasible, allow for coexistence of other leases of the same lands for deposits of minerals under the laws applicable to them, for the location and production of claims under the mining laws, and for other uses of the areas covered by them. Operations under such other leases or for such other uses, however, shall not unreasonably interfere with or endanger operations under any lease issued pursuant to this chapter, nor shall operations under leases so issued unreasonably interfere with or endanger operations under any lease, license, claim, or permit issued pursuant to the provisions of any other Act.

(Pub. L. 91-581, § 17, Dec. 24, 1970, 84 Stat. 1571.)

REFERENCES IN TEXT

The mining laws of the United States, referred to in text, are classified generally to this title.

§ 1017. Cooperative or unit plan of development or operation of geothermal pool, field, or like area; public interest; determination and certification; regulations; protection of parties in interest; authority respecting rate of prospecting, development, and production; leases excepted from control for purposes of State acreage limitation

For the purpose of properly conserving the natural resources of any geothermal pool, field, or like area, or any part thereof, lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan of development or operation of such pool, field, or like area, or any part thereof, whenever this is determined and certified by the Secretary to be necessary or advisable in the public interest. The Secretary may in his discretion and with the consent of the holders of leases involved, establish, alter, change, revoke, and make such regulations with reference to such leases in connection with the institution and operation of any such cooperative or unit plan as he may deem necessary or proper to secure reasonable protection of the public interest. He may include in geothermal leases a provision requiring the lessee to operate under such a reasonable cooperative or unit plan, and he may prescribe such a plan under which such lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States. Any such plan may, in the discretion of the Secretary, provide for vesting in the Secretary or any other person, committee, or Federal or State agency designated therein, authority to alter or modify from time to time the rate of prospecting and development and the quantity and rate of production under such plan. All leases operated under any such plan approved or prescribed by the Secretary shall be excepted in determining holdings or control for the purposes of section 1006 of this title.

When separate tracts cannot be independently developed and operated in conformity with an established well-spacing or development program, any lease, or a portion thereof, may be pooled with other lands, whether or not owned by the United States, under a communitization or drilling agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the drilling or spacing unit when determined by the Secretary to be in the public interest, and operations or production pursuant to such an agreement shall be deemed to be operations or production as to each lease committed thereto.

The Secretary is hereby authorized, on such conditions as he may prescribe, to approve operating, drilling, or development contracts made by one or more lessees of geothermal leases, with one or more persons, associations, or corporations whenever, in his discretion, the conservation of natural products or the public convenience or necessity may require or the interests of the United States may be best served thereby. All leases operated under such approved operating, drilling, or development contracts, and interests thereunder, shall be excepted in determining holdings or control under section 1006 of this title.

(Pub. L. 91-581, § 18, Dec. 24, 1970, 84 Stat. 1571.)

§ 1018. Data from Federal agencies concerning conversion charges; confidential information

Upon request of the Secretary, other Federal departments and agencies shall furnish him with any relevant data then in their possession or knowledge concerning or having bearing upon fair and adequate charges to be made for geothermal steam produced or to be produced for conversion to electric power or other purposes. Data given to any department or agency as confidential under law shall not be furnished in any fashion which identifies or tends to identify the business entity whose activities are the subject of such data or the person or persons who furnished such information.

(Pub. L. 91-581, § 19, Dec. 24, 1970, 84 Stat. 1572.)

§ 1019. Disposal of moneys from public and other lands

All moneys received under this chapter from public lands under the jurisdiction of the Secretary shall be disposed of in the same manner as moneys received from the sale of public lands. Moneys received under this chapter from other lands shall be disposed of in the same manner as other receipts from such lands.

(Pub. L. 91-581, § 20, Dec. 24, 1970, 84 Stat. 1572.)

§ 1020. Publication in Federal Register of known geothermal resource area lands; Federal transfer of surface rights and retention of mineral rights; necessity of geothermal leases for development or production of geothermal resources; report of imminent development or production; quiet title proceedings; venue; injunction; judicial determination of inclusion of geothermal resources within Federal mineral reservation; cessation of duty to report and institute proceedings

(a) Within one hundred and twenty days after December 24, 1970, the Secretary shall cause to be published in the Federal Register a determination of all lands which were included within any known geothermal resources area on December 24, 1970. He shall likewise publish in the Federal Register from time to time his determination of other known geothermal resources areas specifying in each case the date the lands were included in such area; and

(b) Geothermal resources in lands the surface of which has passed from Federal ownership but in which the minerals have been reserved to the United States shall not be developed or produced except under geothermal leases made pursuant to this chapter. If the Secretary of the Interior finds that such development is imminent, or that production from a well heretofore drilled on such lands is imminent, he shall so report to the Attorney General, and the Attorney General is authorized and directed to institute an appropriate proceeding in the United States district court of the district in which such lands are located, to quiet the title of the United States in such resources, and if the court determines that the reservation of minerals to the United States in the lands involved included the geothermal resources, to enjoin their production otherwise than under the terms of this chapter: *Provided*, That upon an authoritative judicial determination that Federal mineral reservation does not include geothermal steam and associated geothermal resources the duties of the Secretary of the Interior to report and of the Attorney General to institute proceedings, as hereinbefore set forth, shall cease.

(Pub. L. 91-581, § 21, Dec. 24, 1970, 84 Stat. 1572.)

§ 1021. Federal exemption from State water laws

Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to its exemption from State water laws.

(Pub. L. 91-581, § 22, Dec. 24, 1970, 84 Stat. 1573.)

§ 1022. Waste, prevention; exclusiveness of provisions for acquisition of geothermal rights

(a) All leases under this chapter shall be subject to the condition that the lessee will, in conducting his exploration, development, and producing operations, use all reasonable precautions to prevent waste of geothermal steam and associated geothermal resources development in the lands leased.

(b) Rights to develop and utilize geothermal steam and associated geothermal resources underlying lands owned by the United States may be acquired solely in accordance with the provisions of this chapter.

(Pub. L. 91-581, § 23, Dec. 24, 1970, 84 Stat. 1573.)

§ 1023. Rules and regulations; scope of provisions

The Secretary shall prescribe such rules and regulations as he may deem appropriate to carry out the provisions of this chapter. Such regulations may include, without limitation, provisions for (a) the prevention of waste, (b) development and conservation of geothermal and other natural resources, (c) the protection of the public interest, (d) assignment, segregation, extension of terms, relinquishment of leases, development contracts, unitization, pooling, and drilling agreements, (e) compensatory royalty agreements, suspension of operations or production, and suspension or reduction of rentals or royalties, (f) the filing of surety bonds to assure compliance with the terms of the lease and to protect surface use and resources, (g) use of the surface by a lessee of the lands embraced in his lease, (h) the maintenance by the lessee of an active development program, and (i) protection of water quality and other environmental qualities.

(Pub. L. 91-581, § 24, Dec. 24, 1970, 84 Stat. 1573.)

§ 1024. Disposal of land laws; reservation of geothermal resources and restriction on disposal of lands with geothermal resources; conveyances prior to December 24, 1970, unaffected

As to any land subject to geothermal leasing under section 1002 of this title, all laws which either (a) provide for the disposal of land by patent or other form of conveyance or by grant or by operation of law subject to a reservation of any mineral or (b) prevent or restrict the disposal of such land because of the mineral character of the land, shall hereafter be deemed to embrace geothermal steam and associated geothermal resources as a substance which either must be reserved or must prevent or restrict the disposal of such land, as the case may be. This section shall not be construed to affect grants, patents, or other forms of conveyances made prior to December 24, 1970.

(Pub. L. 91-581, § 25, Dec. 24, 1970, 84 Stat. 1573.)

§ 1025. Federal retention of certain mineral rights; extraction of minerals without substantial interference with geothermal production

The United States reserves the ownership of and the right to extract under such rules and regulations as the Secretary may prescribe oil,

hydrocarbon gas, and helium from all geothermal steam and associated geothermal resources produced from lands leased under this chapter in accordance with presently applicable laws: *Provided*, That whenever the right to extract oil, hydrocarbon gas, and helium from geothermal steam and associated geothermal resources produced from such lands is exercised pursuant to this section, it shall be exercised so as to cause no substantial interference with the production of geothermal steam and associated geothermal resources from such lands.

(Pub. L. 91-581, § 27, Dec. 24, 1970, 84 Stat. 1574.)

CHAPTER 24—GEOTHERMAL ENERGY RESEARCH, DEVELOPMENT, AND DEMONSTRATION

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 5902, 5905.

§ 1101. Congressional findings

The Congress hereby finds that—

(1) the Nation is currently suffering a critical shortage of environmentally acceptable forms of energy;

(2) the inadequate organizational structures and levels of funding for energy research have limited the Nation's current and future options for meeting energy needs;

(3) electric energy is a clean and convenient form of energy at the location of its use and is the only practicable form of energy in some modern applications, but the demand for electric energy in every region of the United States is taxing all of the alternative energy sources presently available and is projected to increase; some of the sources available for electric power generation are already in short supply, and the development and use of other sources presently involve undesirable environmental impacts;

(4) the Nation's critical energy problems can be solved only if a national commitment is made to dedicate the necessary financial resources, and enlist the cooperation of the private and public sectors, in developing geothermal resources and other nonconventional sources of energy;

(5) the conventional geothermal resources which are presently being used have limited total potential; but geothermal resources which are different from those presently being used, and which have extremely large energy content, are known to exist;

(6) some geothermal resources contain energy in forms other than heat; examples are methane and extremely high pressures available upon release as kinetic energy;

(7) some geothermal resources contain valuable byproducts such as potable water and mineral compounds which should be processed and recovered as national resources;

(8) technologies a.e not presently available for the development of most of these geothermal resources, but technologies for the generation of electric energy from geothermal resources are potentially economical and environmentally desirable, and the development of geothermal resources offers possibilities of process energy and other nonelectric applications;

(9) much of the known geothermal resources exist on the public lands;

(10) Federal financial assistance is necessary to encourage the extensive exploration, research, and development in geothermal resources which will bring these technologies to the point of commercial application;

(11) the advancement of technology with the cooperation of private industry for the

production of useful forms of energy from geothermal resources is important with respect to the Federal responsibility for the general welfare, to facilitate commerce, to encourage productive harmony between man and his environment, and to protect the public interest; and

(12) the Federal Government should encourage and assist private industry through Federal assistance for the development and demonstration of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes.

(Pub. L. 93-410, § 2, Sept. 3, 1974, 88 Stat. 1079.)

SHORT TITLE

Section 1 of Pub. L. 93-410 provided that: "This Act [enacting this chapter] may be cited as the 'Geothermal Energy Research, Development, and Demonstration Act of 1974'."

§ 1102. Definitions

For the purposes of this chapter—

(1) the term "geothermal resources" means (A) all products of geothermal processes, embracing indigenous steam, hot water, and brines, (B) steam and other gases, hot water and hot brines, resulting from water, gas, or other fluids artificially introduced into geothermal formations, and (C) any byproduct derived from them;

(2) the term "byproduct" means any mineral or minerals which are found in solution or in association with geothermal resources and which have a value of less than 75 percent of the value of the geothermal steam and associated geothermal resources or are not, because of quantity, quality, or technical difficulties in extraction and production, of sufficient value to warrant extraction and production by themselves;

(3) "pilot plant" means an experimental unit of small size used for early evaluation and development of new or improved processes and to obtain technical, engineering, and cost data;

(4) "demonstration plant" means a complete facility which produces electricity, heat energy, or useful byproducts for commercial disposal from geothermal resources and which will make a significant contribution to the knowledge of full-size technology, plant operation, and process economics;

(5) the term "Project" means the Geothermal Energy Coordination and Management Project established by section 1121(a) of this title;

(6) the term "fund" means the Geothermal Resources Development Fund established by section 1144(a) of this title; and

(7) the term "Chairman" means the Chairman of the Project.

(Pub. L. 93-410, § 3, Sept. 3, 1974, 88 Stat. 1080.)

SUBCHAPTER I—GEOTHERMAL ENERGY COORDINATION AND MANAGEMENT PROJECT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1161 of this title.

§ 1121. Formation of project

(a) Establishment

There is hereby established the Geothermal Energy Coordination and Management Project.

(b) Composition; members and chairman

(1) The Project shall be composed of six members as follows:

(A) one appointed by the President;

(B) an Assistant Director of the National Science Foundation;

(C) an Assistant Secretary of the Department of the Interior;

(D) an Associate Administrator of the National Aeronautics and Space Administration;

(E) the General Manager of the Atomic Energy Commission; and

(F) an Assistant Administrator of the Federal Energy Administration.

(2) The President shall designate one member of the Project to serve as Chairman of the Project.

(3) If the individual appointed under paragraph (1)(A) of this subsection is an officer or employee of the Federal Government, he shall receive no additional pay on account of his service as a member of the Project. If such individual is not an officer or employee of the Federal Government, he shall be entitled to receive the daily equivalent of the annual rate of basic pay in effect for level IV of the Executive Schedule (5 U.S.C. 5315) for each day (including traveltime) during which he is engaged in the actual performance of duties vested in the Project.

(c) Responsibility for geothermal energy research, development, and demonstration program

The Project shall have overall responsibility for the provision of effective management and coordination with respect to a national geothermal energy research, development, and demonstration program. Such program shall include—

(1) the determination and evaluation of the resource base;

(2) research and development with respect to exploration, extraction, and utilization technologies;

(3) the demonstration of appropriate technologies; and

(4) the loan guaranty program under subchapter II of this chapter.

(d) Allocation of functions to certain agencies; loaning of personnel

(1) The Project shall carry out its responsibilities under this section acting through the following Federal agencies:

(A) the Department of the Interior, the responsibilities of which shall include evaluation and assessment of the resource base, including development of exploration technologies;

(B) the National Aeronautics and Space Administration, the responsibilities of which shall include the provision of contract management capability, evaluation and assessment of the resource base, and the development of technologies pursuant to section 1122(b) of this title;

(C) the Atomic Energy Commission, the responsibilities of which shall include the development of technologies; and

(D) the National Science Foundation, the responsibilities of which shall include basic and applied research.

(2) Upon request of the Project, the head of any such agency is authorized to detail or assign, on a reimbursable basis or otherwise, any of the personnel of such agency to the Project to assist it in carrying out its responsibilities under this chapter.

(e) Exclusive authority of the Project

The Project shall have exclusive authority with respect to the establishment or approval of programs or projects initiated under this chapter, except that the agency involved in any particular program or project shall be responsible for the operation and administration of such program or project.

(Pub. L. 93-410, title I, § 101, Sept. 3, 1974, 88 Stat. 1080.)

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1102 of this title.

§ 1122. Program definition

(a)(1) The Chairman, acting through the Administrator of the National Aeronautics and Space Administration, is authorized and directed to prepare a comprehensive program definition of an integrated effort and commitment for effectively developing geothermal energy resources. Such Administrator, in preparing such comprehensive program definition, is authorized to consult with other Federal agencies and non-Federal entities.

(2) The Chairman shall transmit such comprehensive program definition to the President and to each House of the Congress. Interim reports shall be transmitted not later than November 30, 1974, and not later than January 31, 1975. Such comprehensive program definition shall be transmitted as soon as possible thereafter, but in any case not later than August 31, 1975.

(3) As part of the comprehensive program definition required by paragraph (1) of this subsection, the Chairman, acting through the Geological Survey, shall transmit to the President and to each House of the Congress a schedule and objectives for the inventorying of geothermal resources.

(b) The National Aeronautics and Space Administration is authorized to undertake and carry out those programs assigned to it by the Project.

(Pub. L. 93-410, title I, § 102, Sept. 3, 1974, 88 Stat. 1081.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1121, 1164 of this title.

§ 1123. Resource inventory and assessment program

(a) The Chairman shall initiate a resource inventory and assessment program with the objective of making regional and national appraisals of all types of geothermal resources, including identification of promising target areas for industrial exploration and development. The specific goals shall include—

(1) the improvement of geophysical, geochemical, geological, and hydrological techniques necessary for locating and evaluating geothermal resources;

(2) the development of better methods for predicting the power potential and longevity of geothermal reservoirs;

(3) the determination and assessment of the nature and power potential of the deeper unexplored parts of high temperature geothermal convection systems; and

(4) the survey and assessment of regional and national geothermal resources of all types.

(b) The Chairman, acting through the Geological Survey and other appropriate agencies, shall—

(1) develop and carry out a general plan for the orderly inventorying of all forms of geothermal resources of the Federal lands and, where consistent with property rights and determined by the Chairman to be in the national interest, of non-Federal lands;

(2) conduct regional surveys, based upon such a general plan, using innovative geological, geophysical, geochemical, and stratagraphic drilling techniques, which will lead to a national inventory of geothermal resources in the United States;

(3) publish and make available maps, reports, and other documents developed from such surveys to encourage and facilitate the commercial development of geothermal resources for beneficial use and consistent with the national interest;

(4) make such recommendations for legislation as may from time to time appear to be necessary to make Federal leasing policy for geothermal resources consistent with known inventories of various resource types, with the current state of technologies for geothermal energy development, and with current evaluations of the environmental impacts of such development; and

(5) participate with appropriate Federal agencies and non-Federal entities in research to develop, improve, and test technologies for the discovery and evaluation of all forms of geothermal resources, and conduct research into the principles controlling the location, occurrence, size, temperature, energy content, producibility, and economic lifetimes of geothermal reservoirs.

(Pub. L. 93-410, title I, § 103, Sept. 3, 1974, 88 Stat. 1082.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1126 of this title.

§ 1124. Research and development

(a) The Chairman, acting through the appropriate Federal agencies and in cooperation with

non-Federal entities, shall initiate a research and development program for the purpose of resolving all major technical problems inhibiting the fullest possible commercial utilization of geothermal resources in the United States. The specific goals of such programs shall include—

(1) the development of effective and efficient drilling methods to operate at high temperatures in formations of geothermal interest;

(2) the development of reliable predictive methods and control techniques for the production of geothermal resources from reservoirs;

(3) the exploitation of new concepts for fracturing rock to permit recovery of contained heat reserves;

(4) the improvement of equipment and technology for the extraction of geothermal resources from reservoirs;

(5) the development of improved methods for converting geothermal resources and by-products to useful forms;

(6) the development of improved methods for controlling emissions and wastes from geothermal utilization facilities, including new monitoring methods to any extent necessary;

(7) the development and evaluation of waste disposal control technologies and the evaluation of surface and subsurface environmental effects of geothermal development;

(8) the improvement of the technical capability to predict environmental impacts resulting from the development of geothermal resources, the preparation of environmental impact statements, and the assuring of compliance with applicable standards and criteria;

(9) the identification of social, legal, and economic problems associated with geothermal development (both locally and regionally) for the purpose of developing policy and providing a framework of policy alternatives for the commercial utilization of geothermal resources;

(10) the provision for an adequate supply of scientists to perform required geothermal research and development activities; and

(11) the establishment of a program to encourage States to establish and maintain geothermal resources clearinghouses, which shall serve to (A) provide geothermal resources developers with information with respect to applicable local, State, and Federal laws, rules, and regulations, (B) coordinate the processing of permit applications, impact statements, and other information which geothermal resources developers are required to provide, (C) encourage uniformity with respect to local and State laws, rules, and regulations with respect to geothermal resources development, and (D) encourage establishment of land use plans, which would include zoning for geothermal resources development and which would assure that geothermal resources developers will be able to carry out development programs to the production stage.

(b) The Chairman, acting through the appropriate Federal agencies and in cooperation with non-Federal entities, shall implement a coordinated program of research and development in order to demonstrate the technical means for the extraction and utilization of the resource base, including any by-products of such base, and in order to accomplish the goals established by subsection (a) of this section. Research authorized by this chapter having potential applications in matters other than geothermal energy may be pursued to the extent that the findings of such research can be published in a form for utilization by others.

(Pub. L. 93-410, title I, § 104, Sept. 3, 1974, 88 Stat. 1083.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1126 of this title.

§ 1125. Geothermal demonstration plants and projects

(a) Design and construction

The Chairman, acting through the appropriate Federal agencies and in cooperation with non-Federal entities, shall initiate a program to design and construct geothermal demonstration plants. The specific goals of such program shall include—

(1) the development of economical geothermal resources production systems and components which meet environmental standards;

(2) the design of plants to produce electric power and, where appropriate, the large-scale production and utilization of any useful by-products;

(3) the involvement of engineers, analysts, technicians, and managers from industry field and powerplant development, which shall lead to the early industrial exploitation of advanced geothermal resources;

(4) the provision for an adequate supply of trained geothermal engineers and technicians;

(5) the provision of experimental test beds for component testing an evaluation by laboratories operated by the Federal Government, industry, or institutions of higher education;

(6) the construction and operation of pilot plants; and

(7) the construction and operation of demonstration plants.

(b) Establishment of demonstration projects

In carrying out his responsibilities under this section, the Chairman, acting through the appropriate Federal agencies, and in cooperation with non-Federal entities, may provide for the establishment of one or more demonstration projects utilizing each geothermal resource base involved, which shall include, as appropriate, all of the exploration, siting, drilling, pilot plant construction and operation, demonstration plant construction and operation, and other facilities and activities which may be necessary for the generation of electric energy and the utilization of geothermal resource byproducts.

(c) Agreements for the cooperative development of facilities for demonstration

The Chairman, acting through the appropriate Federal agencies, is authorized to investigate and enter into agreements for the cooperative development of facilities to demonstrate the production of energy from geothermal re-

sources. The responsible Federal agency may consider—

(1) cooperative agreements with utilities and non-Federal governmental entities for construction of facilities to produce energy for commercial disposition; and

(2) cooperative agreements with other Federal agencies for the construction and operation of facilities to produce energy for direct Federal consumption.

(d) Construction of demonstration projects without entering into agreements

The responsible Federal agency is authorized to investigate the feasibility of, construct, and operate, demonstration projects without entering into cooperative agreements with respect to such projects, if the Chairman finds that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the proposal offers opportunities to make important contributions to the general knowledge of geothermal resources, the techniques of its development, or public confidence in the technology; and

(2) there is no opportunity for cooperative agreements with any utility or non-Federal governmental entity willing and able to cooperate in the demonstration project under subsection (c)(1) of this section, and there is no opportunity for cooperative agreements with other Federal agencies under subsection (c)(2) of this section.

(e) Factors considered for entry into agreements

Before favorably considering proposals under subsection (c) of this section, the responsible Federal agency must find that—

(1) the nature of the resource, the geographical location, the scale and engineering design of the facilities, the techniques of production, or any other significant factor of the proposal offers opportunities to make important contributions to the general knowledge of geothermal resources, the techniques of its development, or public confidence in the technology;

(2) the development of the practical benefits as set forth in paragraph (1) of this subsection are unlikely to be accomplished without such cooperative development; and

(3) where non-Federal participants are involved, the proposal is not eligible for adequate Federal assistance under the loan guaranty provisions of subchapter II of this chapter.

(f) Limits on project costs

If the estimate of the Federal investment with respect to construction and operation costs of any demonstration project proposed to be established under this section exceeds $10,000,000, no amount may be appropriated for such project except as specifically authorized by legislation hereafter enacted by the Congress.

(g) Disposal of Federal property interests and resource byproducts

(1) At the conclusion of the program under this section or as soon thereafter as may be practicable, the responsible Federal agencies shall, by sale, lease, or otherwise, dispose of all Federal property interests which they have acquired pursuant to this section (including mineral rights) in accordance with existing law and the terms of the cooperative agreements involved.

(2) The agency involved shall, under appropriate agreements or other arrangements, provide for the disposition of geothermal resource byproducts of the project administered by such agency.

(Pub. L. 93-410, title I, § 105, Sept. 3, 1974, 88 Stat. 1084.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1126, 1162 of this title.

§ 1126. Scientific and technical education

(a) Congressional declaration of policy

It is the policy of the Congress to encourage the development and maintenance of programs through which there may be provided the necessary trained personnel to perform required geothermal research, development, and demonstration activities under sections 1123, 1124, and 1125 of this title.

(b) Support of educational programs in science and engineering

The National Science Foundation is authorized to support programs of education in the sciences and engineering to carry out the policy of subsection (a) of this section. Such support may include fellowships traineeships, technical training programs, technologist training programs, and summer institute programs.

(c) Selection of programs of education; coordination with National Science Foundation

The National Science Foundation is authorized and directed to coordinate its actions, to the maximum extent practicable, with the Project or any permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States, in determining the optimal selection of programs of education to carry out the policy of subsection (a) of this section.

(d) International participation and cooperation

The National Science Foundation is authorized to encourage, to the maximum extent practicable international participation and cooperation in the development and maintenance of programs of education to carrying out the policy of subsection (a) of this section.

(Pub. L. 93-410, title I, § 106, Sept. 3, 1974, 88 Stat. 1085.)

TRANSFER OF FUNCTIONS

Functions of the National Science Foundation relating to or are utilized in connection with geothermal power development transferred and vested in the Administrator, Energy Research and Development Administration, see section 5814 of Title 42, The Public Health and Welfare.

SUBCHAPTER II—LOAN GUARANTIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1121, 1125, 1164 of this title.

§ 1141. Establishment of loan guaranty program

(a) Congressional declaration of policy

It is the policy of the Congress to encourage and assist in the commercial development of practicable means to produce useful energy from geothermal resources with environmentally acceptable processes. Accordingly, it is the policy of the Congress to facilitate such commercial development by authorizing the Chairman of the Project to designate an appropriate Federal agency to guarantee loans for such purposes.

(b) Authorization of heads of designated agencies to guarantee loans

In order to encourage the commercial production of energy from geothermal resources, the head of the designated agency is authorized to, in consultation with the Secretary of the Treasury, guarantee, and to enter into commitments to guarantee, lenders against loss of principal or interest on loans made by such lenders to qualified borrowers for the purposes of—

(1) the determination and evaluation of the resource base;

(2) research and development with respect to extraction and utilization technologies;

(3) acquiring rights in geothermal resources; or

(4) development, construction, and operation of facilities for the demonstration or commercial production of energy from geothermal resources.

(c) Extent of guarantee

Any guaranty under this subchapter shall apply only to so much of the principal amount of any loan as does not exceed 75 percent of the aggregate cost of the project with respect to which the loan is made.

(d) Terms and conditions of guaranties

Loan guaranties under this subchapter shall be on such terms and conditions as the head of the designated agency determines, except that a guaranty shall be made under this subchapter only if—

(1) the loan bears interest at a rate not to exceed such annual per centum on the principal obligation outstanding as the head of the designated agency determines to be reasonable, taking into account the range of interest rates prevailing in the private sector for similar loans and risks by the United States;

(2) the terms of such loan require full repayment over a period not to exceed thirty years, or the useful life of any physical asset to be financed by such loan, whichever is less (as determined by the head of the designated agency);

(3) in the judgment of the head of the designated agency, the amount of the loan (when combined with amounts available to the qualified borrower from other sources) will be sufficient to carry out the project; and

(4) in the judgment of the head of the designated agency, there is reasonable assurance of repayment of the loan by the qualified borrower of the guaranteed indebtedness.

(e) Limits on amounts which can be guaranteed

The amount of the guaranty for any loan for a project shall not exceed $25,000,000, and the amount of the guaranty for any combination of loans for any single qualified borrower shall not exceed $50,000,000.

(f) Definition

As used in this subchapter, the term "qualified borrower" means any public or private agency, institution, association, partnership, corporation, political subdivision, or other legal entity which (as determined by the head of the designated agency) has presented satisfactory evidence of an interest in geothermal resources and is capable of performing research or completing the development and production of energy in an acceptable manner.

(Pub. L. 93–410, title II, § 201, Sept. 3, 1974, 88 Stat. 1086.)

§ 1142. Payment of interest

(a) With respect to any loan guaranteed pursuant to this subchapter, the head of the designated agency is authorized to enter into a contract to pay, and to pay, the lender for and on behalf of the borrower the interest charges which become due and payable on the unpaid balance of any such loan if the head of the designated agency finds—

(1) that the borrower is unable to meet interest charges, and that it is in the public interest to permit the borrower to continue to pursue the purposes of his project, and that the probable net cost to the Federal Government in paying such interest will be less than that which would result in the event of a default; and

(2) the amount of such interest charges which the head of the designated agency is authorized to pay shall be no greater than the amount of interest which the borrower is obligated to pay under the loan agreement.

(b) In the event of any default by a qualified borrower on a guaranteed loan, the head of the designated agency is authorized to make payment in accordance with the guaranty, and the Attorney General shall take such action as may be appropriate to recover the amounts of such payments (including any payment of interest under subsection (a) of this section) from such assets of the defaulting borrower as are associated with the project, or from any other surety included in the terms of the guaranty.

(Pub. L. 93–410, title II, § 202, Sept. 3, 1974, 88 Stat. 1087.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1144 of this title.

§ 1143. Period of guaranties and interest assistance

No loan guaranties shall be made, or interest assistance contract entered into, pursuant to this subchapter, after the expiration of the ten-calendar-year period following September 3, 1974.

(Pub. L. 93–410, title II, § 203, Sept. 3, 1974, 88 Stat. 1087.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1144 of this title.

§ 1144. Geothermal Resources Development Fund

(a) Establishment; purposes for which Fund moneys may be expended

There is established in the Treasury of the United States a Geothermal Resources Development Fund, which shall be available to the head of the designated agency for carrying out the loan guaranty and interest assistance program authorized by this subchapter, including the payment of administrative expenses incurred in connection therewith. Moneys in the fund not needed for current operations may, with the approval of the Secretary of the Treasury, be invested in bonds or other obligations of, or guaranteed by, the United States.

(b) Deposits into the Fund

There shall be paid into the fund the amounts appropriated pursuant to section 1164(c) of this title and such amounts as may be returned to the United States pursuant to section 1142(b) of this title, and the amounts in the fund shall remain available until expended, except that after the expiration of the ten-year period established by section 1143 of this title, such amounts in the fund which are not required to secure outstanding guaranty obligations shall be paid into the general fund of the Treasury.

(c) Reports to Congress

Business-type financial reports covering the operations of the fund shall be submitted to the Congress by the head of the designated agency annually upon the completion of an appropriate accounting period.

(Pub. L. 93-410, title II, § 204, Sept. 3, 1974, 88 Stat. 1087.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1102 of this title.

SUBCHAPTER III—GENERAL PROVISIONS

§ 1161. Protection of environment

In the conduct of its activities, the Project and any participating public or private persons or agencies shall place particular emphasis upon the objective of assuring that the environment and the safety of persons or property are effectively protected; and the program under subchapter I of this chapter shall include such special research and development as may be necessary for the achievement of that objective.

(Pub. L. 93-410, title III, § 301, Sept. 3, 1974, 88 Stat. 1088.)

§ 1162. Annual reports to President and Congress; final reports on terminated projects

(a) The Chairman of the Project shall submit to the President and the Congress full and complete annual reports of the activities of the Project, including such projections and estimates as may be necessary to evaluate the progress of the national geothermal energy research, development and demonstration program and to provide the basis for as accurate a judgment as is possible concerning the extent to which the objectives of this chapter will have been achieved by June 30, 1980.

(b) No later than one year after the termination of each demonstration project under section 1125 of this title, the Chairman of the Project shall submit to the President and the Congress a final report on the activities of the Project related to each project, including his recommendations with respect to any further legislative, administrative, and other actions which should be taken in support of the objectives of this chapter.

(Pub. L. 93-410, title III, § 302, Sept. 3, 1974, 88 Stat. 1088.)

§ 1163. Transfer of functions

(a) Within sixty days after the effective date of the law creating a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States (or within sixty days after September 3, 1974, if the effective date of such law occurs prior to September 3, 1974), all of the research, development, and demonstration functions (including the loan guaranty program) vested in the Project under this chapter, along with related records, documents, personnel, obligations, and other items to the extent necessary or appropriate, shall, in accordance with regulations prescribed by the Office of Management and Budget, be transferred to and vested in such organization or agency.

(b) Upon the establishment of a permanent Federal organization or agency having jurisdiction over the energy research and development functions of the United States, and when all research and development (and other) functions of the Project are transferred, the members of the Project may provide advice and counsel to the head of such organization or agency, in accordance with arrangements made at that time.

(Pub. L. 93-410, title III, § 303, Sept. 3, 1974, 88 Stat. 1088.)

§ 1164. Authorization of appropriations

(a) For the fiscal years ending June 30, 1976, and September 30, 1977, 1978, 1979, and 1980, only such sums may be appropriated as the Congress may hereafter authorize by law.

(b) There are authorized to be appropriated to the National Aeronautics and Space Administration not to exceed $2,500,000 for the fiscal year ending June 30, 1975, for the purpose of preparing the program definition under section 1122(a) of this title.

(c) In addition to sums authorized to be appropriated by subsection (b) of this section, there are authorized to be appropriated to the fund not to exceed $50,000,000 annually, such sums to carry out the provisions of the loan guaranty program by the Project under subchapter II of this chapter.

(Pub. L. 93-410, title III, § 304, Sept. 3, 1974, 88 Stat. 1089.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1144 of this title.